MONMOUTH REAL ESTATE INVESTMENT CORP
Form 424B5
April 20, 2010

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Registration No. 333-161668

PROSPECTUS SUPPLEMENT
(To Prospectus dated September 14, 2009)

4,000,000 Shares

Monmouth Real Estate Investment Corporation

Common Stock

$7.50 Per Share

We are offering 4,000,000 shares of our common stock, par value $0.01 per share (the "Common Stock").

We have applied to list the shares on the NASDAQ Global Select Market under the symbol "MNRTA." On April 19, 2010, the last reported sale price for our common stock was $7.78 per share.

We have retained CSCA Capital Advisors, LLC ("CSCA") to act as placement agent in connection with this offering. CSCA has no commitment to purchase our Common Stock and will act only as an agent in obtaining indications of interest in the Common Stock from certain investors. We have agreed to pay CSCA, a placement agent fee of 5.0% of gross proceeds and to pay certain of its expenses. After paying the placement agent fee and other estimated expenses payable by us, we anticipate receiving approximately $28,300,000 in net proceeds from this offering.

Investing in our Common Stock involves risks, including those that are described in the "Risk Factors" sections beginning on page 2 of the accompanying prospectus and page 6 of our Annual Report on Form 10-K for the fiscal year ended September 30, 2009, which is incorporated herein by reference.

	Per Share	Total
Public Offering Price	$7.500	$30,000,000
Placement Agent Fees and Commissions	$0.375	$1,500,000
Proceeds to us (before expenses)	$7.125	$28,500,000

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

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CSCA Capital Advisors, LLC

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The date of this prospectus supplement is April 20, 2010

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PROSPECTUS SUPPLEMENT

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PROSPECTUS

ABOUT THIS PROSPECTUS SUPPLEMENT

You should rely only on the information contained in or incorporated by reference into this prospectus supplement, the accompanying prospectus and any "free writing prospectus" we may authorize to be delivered to you. We have not authorized anyone to provide you with different or additional information. We are offering to sell, and seeking offers to buy, the securities only in jurisdictions where offers and sales are permitted. You should not assume that the information appearing in this prospectus supplement, the accompanying prospectus, any "free writing prospectus" or the documents incorporated by reference is accurate as of any date other than their respective dates. Our business, financial condition, results of operations and prospects may have changed since those dates.

This document is in two parts. The first part is this prospectus supplement, which adds to and updates information contained in the accompanying prospectus and the documents incorporated by reference into the accompanying prospectus. The second part is the accompanying prospectus, which gives more general information, some of which may not apply to this offering.

In this prospectus supplement, the words "we," "our," "ours" and "us" refer to Monmouth Real Estate Investment Corporation and its subsidiaries unless the context indicates otherwise.

FORWARD-LOOKING STATEMENTS

Statements contained in this prospectus supplement and the accompanying prospectus, including the documents that are incorporated by reference, that are not historical facts are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Also, when we use any of the words "anticipate," "assume," "believe," "estimate," "expect," "intend," or similar expressions, we are making forward-looking statements. These forward-looking statements are not guarantees and are based on our current intentions and on our current expectations and assumptions. These statements, intentions, expectations and assumptions involve risks and uncertainties, some of which are beyond our control that could cause actual results or events to differ materially from those we anticipate or project, such as:

- the ability of our tenants to make payments under their respective leases;
- our reliance on certain major tenants and our ability to re-lease properties that are currently vacant or that become vacant;
- our ability to obtain suitable tenants for our properties;
- changes in real estate market conditions and general economic conditions;
- the inherent risks associated with owning real estate, including local real estate market conditions, governing laws and regulations and illiquidity of real estate investments;
- our ability to sell properties at an attractive price;
- our ability to repay debt financing obligations;
- our ability to refinance amounts outstanding under our credit facilities at maturity on terms favorable to us;
- the loss of any member of our management team;
- our ability to comply with certain debt covenants;
- our ability to integrate acquired properties and operations into existing operations;
- continued availability of debt or equity capital;
- market conditions affecting our equity capital;
- changes in interest rates under our current credit facilities and under any additional variable rate debt arrangements that we may enter into in the future;
- our ability to implement successfully our selective acquisition strategy;
- our ability to maintain internal controls and procedures to ensure all transactions are accounted for properly, all relevant disclosures and filings are timely made in accordance with all rules and regulations and any potential fraud or embezzlement is thwarted or detected;

changes in federal or state tax rules or regulations that could have adverse tax consequences; and

our ability to qualify as a real estate investment trust for federal income tax purposes.

You should not place undue reliance on these forward-looking statements, as events described or implied in such statements may not occur. We undertake no obligation to update or revise any forward-looking statements as a result of new information, future events or otherwise.

SUMMARY

The following summary is qualified in its entirety by the more detailed information and consolidated financial statements and notes thereto appearing elsewhere in, or incorporated by reference into, this prospectus supplement and the accompanying prospectus.

The Company

General

Monmouth Real Estate Investment Corporation is a Maryland corporation operating as a qualified real estate investment trust ("REIT") under Sections 856 through 859 of the Internal Revenue Code of 1986, as amended (the "Code"). Currently, we seek to invest in well-located, modern buildings leased to investment grade tenants on long-term leases and derive our income primarily from the rental of these facilities. At December 31, 2009, we owned approximately 6,674,000 square feet of property, of which approximately 3,280,000 square feet, or 49%, was leased to Federal Express Corporation and its subsidiaries and approximately 388,671 square feet in St. Joseph, Missouri, or 6%, was leased to Mead Corporation, which subleased the space to Hallmark Cards, Incorporated. During fiscal 2009, the only tenant that accounted for more than 5% of our total rental and reimbursement revenue was Federal Express Corporation and its subsidiaries. During fiscal 2009, 2008 and 2007, rental and reimbursement revenue from Federal Express Corporation and its subsidiaries represented approximately 59%, 56% and 49%, respectively, of our total rental and reimbursement revenue.

At February 28, 2010, we had investments in sixty-one industrial properties, fifty-eight of which were wholly-owned by us, and a two-thirds undivided interest in one shopping center. These properties are located in Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin. At February 28, 2010, all of our wholly-owned industrial properties and the shopping center were managed by a management company affiliated with one of our directors. All properties in which we have investments are leased on a net basis except the industrial property located in Monaca, Pennsylvania and the shopping center in Somerset, New Jersey.

On January 27, 2010, we acquired a 184,317 square foot industrial property in Dallas, Texas for approximately $17,900,000 which is net-leased to Carrier Enterprise LLC. On March 2, 2010, we acquired the remaining 35% minority interest in Jones EPI, LLC ("Jones EPI"), a Delaware limited liability company, for approximately $949,000. Jones EPI owns a 92,000 square foot industrial building in El Paso, Texas, leased to FedEx Ground Package Systems, Inc., through 2015. The minority interest was purchased from Jones Willmar, LLC, a Missouri limited liability company, which constructed the building for the tenant in 2005. Prior to this acquisition, we owned 65% of Jones EPI.

We anticipate acquiring additional properties in fiscal 2010. The funds for these acquisitions are expected to come from our available line of credit, mortgages, other bank borrowings, proceeds from the Dividend Reinvestment and Stock Purchase Plan ("DRIP") and private or public placements of common or preferred stock. To the extent that funds or appropriate properties are not available, few or no acquisitions may be made. Because of the contingent nature of contracts to purchase real property, we will announce acquisitions only upon closing.

We compete with other investors in real estate for attractive investment opportunities. These investors include other "equity" real estate investment trusts, limited partnerships, syndications and private investors, among others. Competition in the market areas in which we operate is significant and affects our ability to acquire or expand properties, occupancy levels, rental rates and operating expenses of certain properties. Management has built

relationships with merchant builders that have historically provided us with investment opportunities that fit our investment policy.

We have a flexible investment policy concentrating our investments in the area of long-term net-leased industrial properties to investment grade tenants. Our strategy is to obtain a favorable yield spread between the yield from the net-leased industrial properties and interest costs. We anticipate that we will continue to purchase net leased, well-located industrial properties because our management believes that these investments offer a potential for long-term capital appreciation. There is the risk that, on expiration of current leases, the properties can become vacant or re-leased at lower rents. The results we obtain by re-leasing the properties will depend on the market for industrial properties at that time.

We also continue to invest in both debt and equity securities of other REITs. We, from time to time, may purchase these securities on margin when the interest and dividend yields exceed the cost of the funds. This securities portfolio, to the extent not pledged to secure borrowing, provides us with liquidity and additional income. Such securities are subject to risk arising from adverse changes in market rates and prices, primarily interest rate risk relating to debt securities and equity price risk relating to equity securities. From time to time, we may use derivative instruments to mitigate interest rate risk.

On March 19, 2010, our common stock was added to the Wilshire US Real Estate Investment Trust (REIT) Index, which measures the stock price of various U. S. publicly traded real estate investment trusts.

On April 16, 2010, we executed and submitted for filing with the State of Maryland an amendment to our Articles of Incorporation to increase our authorized capital stock by 5,000,000 shares. This amendment, which was approved by our Board of Directors in accordance with the Articles and the Maryland General Corporation Law, will become effective upon acceptance by the State of Maryland, which is expected to be confirmed during the week of April 19, 2010. As a result of this amendment, our total authorized shares will be increased from 41,322,500 shares (classified as 35,000,000 shares of common stock, 5,000,000 shares of excess stock and 1,322,500 shares of preferred stock) to 46,322,500 shares (classified as 40,000,000 shares of common stock, 5,000,000 shares of excess stock and 1,322,500 shares of preferred stock).

Prior to July 31, 2007, we operated as part of a group of three public companies (all REITs) which included UMH Properties, Inc. (“UMH”) and Monmouth Capital Corporation (“Monmouth Capital” and together with UMH, the “affiliated companies”). Monmouth Capital was merged into us on July 31, 2007. We continue to operate in conjunction with UMH. UMH has focused its investing in manufactured home communities. General and administrative expenses are allocated between the two remaining affiliated companies based on use or services provided. We currently have nine employees. Allocations of salaries and benefits are made between the affiliated companies based on the amount of the employees’ time dedicated to each affiliated company.

Our executive offices are located at Juniper Business Plaza, Suite 3-C, 3499 Route 9 North, Freehold, New Jersey 07728, and our telephone number is (732) 577-9996. Our website is located at www.mreic.com. Information contained on our website is not a part of this prospectus supplement.

The Offering

The following is a brief summary of some of the terms of this offering. For a more complete description of the terms of our Common Stock see "Description of Capital Stock" in the accompanying prospectus.

Issuer	Monmouth Real Estate Investment Corporation, a Maryland corporation.
Securities Offered	4,000,000 shares of Common Stock, par value $0.01 per share.
Price per Share	$7.50
Common Stock outstanding after this offering	32,903,758 shares
NASDAQ Global Select Market symbol	MNRTA
Restriction on Ownership and Transfer	No person may own, or be deemed to own by virtue of the attribution rules of the Code, more than 9.8% in value or in number of shares of our outstanding stock (other than shares of our excess stock), subject to certain exceptions. In addition, no person may own, or be deemed to own, shares of our stock (other than shares of our excess stock) that would result in shares of our stock being owned by fewer than 100 persons, us being "closely held" within the meaning of Section 856 of the Code or us otherwise failing to qualify as a REIT under the Code. See "Description of Capital Stock—Restrictions on Ownership and Transfer" in the accompanying prospectus.
Use of Proceeds	We intend to use the proceeds of this offering to purchase additional properties in the ordinary course of our business and for general corporate purposes. See "Use of Proceeds" beginning on page S-5 of this prospectus supplement.
Risk Factors	You should read carefully the "Risk Factors" beginning on page 2 of the accompanying prospectus and page 6 of our Annual Report on Form 10-K for the fiscal year ended September 30, 2009, for certain considerations relevant to investing in the Common Stock.

USE OF PROCEEDS

We estimate the net proceeds from the sale of all the Common Stock offered hereby will be approximately $28,300,000, giving effect to the public offering price of $7.50 per share and after deducting the placement agent fee and other estimated expenses of approximately $200,000. We intend to use the net proceeds to purchase additional properties in the ordinary course of our business and for general corporate purposes. Until we use the net proceeds from this offering, they may be deposited in interest bearing cash accounts or invested in short-term securities, including securities that may not be investment grade.

PLAN OF DISTRIBUTION

We are offering the shares of our Common Stock through a placement agent. Subject to the terms and conditions contained in the placement agent agreement, dated April 20, 2010, CSCA Capital Advisors, LLC ("CSCA") has agreed to act as the placement agent for this offering. CSCA may be an underwriter within the meaning of the Securities Act in connection with its placement agent activities in this offering.

CSCA has no commitment to purchase any shares of our Common Stock and will act only as an agent in obtaining indications of interest in our Common Stock from certain investors. We agreed to pay the placement agent a fee of 5.0% of the gross proceeds and to pay certain of its expenses.

We have agreed to indemnify the placement agent and each of its partners, directors, officers, associates, affiliates, subsidiaries, employees, consultants, attorneys, agents, and each person, if any, controlling the placement agent and any of its affiliates, against liabilities resulting from this offering and to contribute to payments the placement agent may be required to make for these liabilities.

In connection with this offering, CSCA may engage broker dealers as sub-placement agents to participate in the placement of the Common Stock. Such sub-placement agents may receive a portion of the placement agent fee paid to CSCA as well as other compensation and fees.

In the ordinary course of business, CSCA and/or its affiliates have engaged, and may in the future engage, in financial advisory, investment banking and other transactions with us for which customary compensation has been, and will be, paid.

Subject to the terms and conditions of purchase agreements dated April 20, 2010, certain institutional investors have agreed to purchase, and we have agreed to sell, 4,000,000 shares of Common Stock at a negotiated purchase price of $7.50 per share. The purchase agreements provide that the obligations of the purchasers to purchase the shares included in this offering are subject to customary closing conditions. In negotiating the offering price per share of our Common Stock, we considered the dilution to our stockholders that will result from this offering.

Weeden & Co. LP is acting as settlement agent in connection with the sale of our Common Stock under the purchase agreements and will receive a fee of $80,000.

LEGAL MATTERS

Certain legal matters will be passed upon for us by Stroock & Stroock & Lavan LLP, as our securities and tax counsel. Certain matters of Maryland law will be passed on for us by Venable LLP.

EXPERTS

The consolidated financial statements and schedules of Monmouth Real Estate Investment Corporation as of and for the year ended September 30, 2009, and for each of the years in the two-year period ended September 30, 2009, included in our Annual Report on Form 10-K for the year ended September 30, 2009, have been incorporated by reference herein in reliance upon the report of PKF, Certified Public Accountants, A Professional Corporation, independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

The consolidated financial statements and schedules of Monmouth Real Estate Investment Corporation as of September 30, 2007, included in our Annual Report on Form 10-K for the year ended September 30, 2007, have been incorporated by reference herein in reliance upon the report of Reznick Group, P.C., independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a shelf registration statement under the Securities Act with respect to the securities offered hereunder. As permitted by the rules and regulations of the SEC, this prospectus supplement and the accompanying prospectus do not contain all the information set forth in the registration statement. For further information regarding our company and our securities, please refer to the registration statement and the contracts, agreements and other documents filed as exhibits to the registration statement. Additionally, you should refer to our annual, quarterly and special reports, proxy statements and other information we file with the SEC.

You may read and copy all or any portion of the registration statement or any other materials that we file with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference rooms. Our SEC filings, including the registration statement, are also available to you on the SEC's website (http://www.sec.gov). We also have a website (www.mreic.com) through which you may access our recent SEC filings. Information contained on our website is not a part of this prospectus supplement. In addition, you may look at our SEC filings at the offices of the

NASDAQ Stock Market, Inc., which is located at 1500 Broadway, New York, New York 10036. Our SEC filings are available at the NASDAQ because our common stock and preferred stock are listed and traded on the Nasdaq Global Select Market under the respective symbols “MNRTA” and “MNRTP.”

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The SEC allows us to “incorporate by reference” the information contained in documents that we file with them. That means we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus supplement, and information that we later file with the SEC will automatically update and supersede this information.

We incorporate by reference the documents listed below and any future filings we make with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, until we sell all the securities offered by this prospectus supplement.

- Our Annual Report on Form 10-K, as filed with the SEC on December 10, 2009.
- Our Quarterly Report on Form 10-Q, as filed with the SEC on February 8, 2010.
- All other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since September 30, 2009, except for information furnished under Current Reports on Form 8-K, which is not deemed filed and not incorporated herein by reference.
- The description of our common stock which is contained in a registration statement filed under the Exchange Act, including any amendment or reports filed for the purpose of updating such description.

You may request a free copy of these filings (other than the exhibits thereto, unless they are specifically incorporated by reference in the documents) by writing or telephoning us at the following address and telephone number:

Monmouth Real Estate Investment Corporation
Attention: Stockholder Relations
3499 Route 9 N, Suite 3-C
Juniper Business Plaza
Freehold, NJ 07728
(732) 577-9996

PROSPECTUS

$115,000,000

MONMOUTH REAL ESTATE INVESTMENT CORPORATION

Common Stock
Preferred Stock
Debt Securities

We may use this prospectus to offer and sell our common stock, preferred stock or debt securities from time to time. The aggregate public offering prices of the common stock, preferred stock and debt securities covered by this prospectus, which we refer to collectively as the securities, will not exceed $115,000,000. The securities may be offered, separately or together, in separate classes or series, in amounts, at prices and on terms to be determined at the time of the offering and set forth in one or more supplements to this prospectus. Our common stock is listed and traded on the Nasdaq Global Select Market under the symbol "MNRTA." Our 7.625% Series A Cumulative Redeemable Preferred Stock is listed and traded on the Nasdaq Global Select Market under the symbol "MNRTP."

We will provide the specific terms and conditions of these securities in supplements to this prospectus in connection with each offering. Such specific terms may include limitations on direct or beneficial ownership and restrictions on transfer of the securities, in each case as may be appropriate to preserve our status as a real estate investment trust ("REIT") for U.S. federal income tax purposes. See "Description of Capital Stock—Restrictions on Ownership and Transfer." Please read this prospectus and the applicable prospectus supplement carefully before you invest.

We may offer the securities directly, through agents designated by us from time to time, or to or through underwriters or dealers. If any agents, underwriters or dealers are involved in the sale of any of the securities, their names, and any applicable purchase price, fee, commission or discount arrangement between or among them will be set forth or will be calculable from the information set forth in the applicable prospectus supplement. See "Plan of Distribution."

An investment in our securities involves a high degree of risk. See "Risk Factors" beginning on page 2 of this prospectus for a discussion of risk factors that you should consider in connection with an investment in our securities.

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

The date of this prospectus is September 14, 2009.

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the SEC using a "shelf" registration process. Under this process, we may from time to time sell in one or more offerings any of the securities described in this prospectus, or any combination thereof, up to a total amount of $100,000,000. In addition, we may sell up to an additional $15,000,000 in Common or Preferred Stock. In this prospectus, we refer collectively to our common stock and preferred stock as our "capital stock," and collectively to our senior and subordinated debt as our "debt securities."

You should read this prospectus and any applicable prospectus supplement together with the additional information described under the heading "Where You Can Find More Information" in this prospectus. The prospectus supplement may add, update or change the information contained in this prospectus. The registration statement that contains this prospectus and the exhibits to that registration statement contain additional important information about us and the securities offered under this prospectus. Specifically, we have filed certain legal documents that control the terms of the securities as exhibits to the registration statement. We may file certain other legal documents that control the terms of the securities as exhibits to reports we file with the SEC. That registration statement and the other reports can be read at the SEC's website or at the SEC offices mentioned under the heading "Where You Can Find More Information," or can be obtained by writing or telephoning us at the following address and telephone number:

Monmouth Real Estate Investment Corporation
Attention: Stockholder Relations
3499 Route 9 N, Suite 3-C
Juniper Business Plaza
Freehold, NJ 07728
(732) 577-9996

MONMOUTH REAL ESTATE INVESTMENT CORPORATION

Monmouth Real Estate Investment Corporation is a Maryland corporation operating as a qualified REIT under Sections 856 through 860 of the Internal Revenue Code (the "Code"). Currently, we seek to invest in well-located, modern buildings leased to investment grade tenants on long-term leases and derive our income primarily from the rental of these facilities. At June 30, 2009, we owned approximately 6,070,000 square feet of property, of which approximately 2,810,000 square feet, or 46%, was leased to Federal Express Corporation and its subsidiaries and approximately 279,000 square feet, or 5%, was leased to Keebler Company, a subsidiary of the Kellogg Company. During fiscal 2008, 2007 and 2006 rental and reimbursement revenue from properties leased to these two companies approximated 61%, 55% and 55%, respectively, of our total rental and reimbursement revenue.

At June 30, 2009, we owned fifty-seven industrial properties and one shopping center. These properties are located in Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and Wisconsin. All properties are managed by a management company. All properties are leased on a net basis except the property located in Monaca, Pennsylvania and the shopping center in Somerset, New Jersey.

We anticipate acquiring additional properties in the second half of 2009. The funds for these acquisitions are expected to come from our available line of credit, mortgages, other bank borrowings, proceeds from the Dividend Reinvestment and Stock Purchase Plan ("DRIP") and private or public placements of additional common or preferred stock. To the extent that funds or appropriate properties are not available, few or no acquisitions may be made. Because of the contingent nature of contracts to purchase real property, we will announce acquisitions only upon

closing.

We compete with other investors in real estate for attractive investment opportunities. These investors include other "equity" real estate investment trusts, limited partnerships, syndications and private investors, among others. Competition in the market areas in which we operate is significant and affects our ability to acquire or expand properties, occupancy levels, rental rates and operating expenses of certain properties. Management has

built relationships with merchant builders that have historically provided us with investment opportunities that fit our investment policy.

We have a flexible investment policy concentrating our investments in the area of long-term net-leased industrial properties to investment grade tenants. Our strategy is to obtain a favorable yield spread between the yield from the net-leased industrial properties and interest costs. We anticipate that we will continue to purchase net-leased, well-located industrial properties, because our management believes these investments offer a potential for long-term capital appreciation. There is the risk that, on expiration of current leases, the properties can become vacant or re-leased at lower rents. The results we obtain by re-leasing the properties will depend on the market for industrial properties at that time.

We also continue to invest in both debt and equity securities of other REITs. We from time to time may purchase these securities on margin when the interest and dividend yields exceed the cost of the funds. This securities portfolio, to the extent not pledged to secure borrowing, provides us with liquidity and additional income. Such securities are subject to risk arising from adverse changes in market rates and prices, primarily interest rate risk relating to debt securities and equity price risk relating to equity securities. From time to time, we may use derivative instruments to mitigate interest rate risk.

Prior to July 31, 2007, we operated as part of a group of three public companies (all REITs) which included UMH Properties, Inc. (“UMH”) and Monmouth Capital Corporation (“Monmouth Capital” and together with UMH, the “affiliated companies”). Monmouth Capital was merged into us on July 31, 2007. We continue to operate in conjunction with UMH. UMH has focused its investing in manufactured home communities. General and administrative expenses are allocated between the two remaining affiliated companies based on use or services provided. We currently have nine employees. Allocations of salaries and benefits are made between the affiliated companies based on the amount of the employees’ time dedicated to each affiliated company.

Our executive offices are located at Juniper Business Plaza, Suite 3-C, 3499 Route 9 North, Freehold, New Jersey 07728, and our telephone number is (732) 577-9996. Our website is located at www.mreic.com. Information contained on our website is not a part of this prospectus.

RISK FACTORS

Set forth below are the risks that we believe are important to investors in our securities. Before you decide to purchase our securities, you should consider carefully the risks described below, together with the information provided in the other parts of this prospectus and any related prospectus supplement.

Real Estate Industry Risks

We face risks associated with local real estate conditions in areas where we own properties. We may be affected adversely by general economic conditions and local real estate conditions. For example, an oversupply of industrial properties in a local area or a decline in the attractiveness of our properties to tenants and potential tenants would have a negative effect on us.

Other factors that may affect general economic conditions or local real estate conditions include:

- population and demographic trends;
- employment and personal income trends;

- zoning, use and other regulatory restrictions;
- income tax laws;
- changes in interest rates and availability and costs of financing;

- competition from other available real estate;
- our ability to provide adequate maintenance and insurance; and
- increased operating costs, including insurance premiums, utilities and real estate taxes, which may not be offset by increased rents.

We may be unable to compete with our larger competitors and other alternatives available to tenants or potential tenants of our properties. The real estate business is highly competitive. We compete for properties with other real estate investors and purchasers, including other real estate investment trusts, limited partnerships, syndications and private investors, many of whom have greater financial resources, revenues and geographical diversity than we have. Furthermore, we compete for tenants with other property owners. All of our industrial properties are subject to significant local competition. We also compete with a wide variety of institutions and other investors for capital funds necessary to support our investment activities and asset growth. To the extent that we are unable to effectively compete in the marketplace, our business may be adversely affected.

We are subject to significant regulation that inhibits our activities and may increase our costs. Local zoning and use laws, environmental statutes and other governmental requirements may restrict expansion, rehabilitation and reconstruction activities. These regulations may prevent us from taking advantage of economic opportunities. Legislation such as the Americans with Disabilities Act may require us to modify our properties at a substantial cost and noncompliance could result in the imposition of fines or an award of damages to private litigants. Future legislation may impose additional requirements. We cannot predict what requirements may be enacted or amended or what costs we will incur to comply with such requirements.

Our investments are concentrated in the industrial distribution sector and our business would be adversely affected by an economic downturn in that sector. Our investments in real estate assets are primarily concentrated in the industrial distribution sector. This concentration may expose us to the risk of economic downturns in this sector to a greater extent than if our business activities included a more significant portion of other sectors of the real estate industry.

Risks Associated with Our Properties

We may be unable to renew leases or relet space as leases expire. While we seek to invest in well-located, modern buildings leased to investment grade tenants on long term leases, a number of our properties are subject to short term leases. When a lease expires, a tenant may elect not to renew it. We may not be able to relet the property on similar terms, if we are able to relet the property at all. The terms of renewal or re-lease (including the cost of required renovations and/or concessions to tenants) may be less favorable to us than the prior lease. If we are unable to relet all or a substantial portion of our properties, or if the rental rates upon such reletting are significantly lower than expected rates, our cash generated before debt repayments and capital expenditures and our ability to make expected distributions, may be adversely affected. We have established an annual budget for renovation and reletting expenses that we believe is reasonable in light of each property's operating history and local market characteristics. This budget, however, may not be sufficient to cover these expenses.

Our business is substantially dependent on Federal Express Corporation. Federal Express Corporation is our largest tenant. As of June 30, 2009, Federal Express Corporation leased approximately 46% of the total square footage that we own. Annualized rental income and occupancy charges from Federal Express Corporation and its subsidiaries are estimated at approximately 57% of total rental and reimbursement revenue for fiscal 2009. If Federal Express Corporation terminated its leases with us or was unable to make lease payments because of a downturn in its business or otherwise, our financial condition and ability to make expected distributions will be materially and adversely affected.

We have been and may continue to be affected negatively by tenant financial difficulties and leasing delays. At any time, a tenant may experience a downturn in its business that may weaken its financial condition. Similarly, a general decline in the economy may result in a decline in the demand for space at our industrial properties. As a result, our tenants may delay lease commencement, fail to make rental payments when due, or

declare bankruptcy. Any such event could result in the termination of that tenant's lease and losses to us, resulting in a decrease of distributions to investors. We receive a substantial portion of our income as rents under long-term leases. If tenants are unable to comply with the terms of their leases because of rising costs or falling revenues, we, in our sole discretion, may deem it advisable to modify lease terms to allow tenants to pay a lower rental rate or a smaller share of operating costs, taxes and insurance. If a tenant becomes insolvent or bankrupt, we cannot be sure that we could recover the premises from the tenant promptly or from a trustee or debtor-in-possession in any bankruptcy proceeding relating to the tenant. We also cannot be sure that we would receive rent in the proceeding sufficient to cover our expenses with respect to the premises. If a tenant becomes bankrupt, the federal bankruptcy code will apply and, in some instances, may restrict the amount and recoverability of our claims against the tenant. A tenant's default on its obligations to us for any reason could adversely affect our financial condition and the cash we have available for distribution.

We may be unable to sell properties when appropriate because real estate investments are illiquid. Real estate investments generally cannot be sold quickly and, therefore, will tend to limit our ability to vary our property portfolio promptly in response to changes in economic or other conditions. In addition, the Code limits our ability to sell our properties. The inability to respond promptly to changes in the performance of our property portfolio could adversely affect our financial condition and ability to service debt and make distributions to our stockholders.

Environmental liabilities could affect our profitability. We face possible environmental liabilities. Environmental laws today can impose liability on a previous owner or operator of a property that owned or operated the property at a time when hazardous or toxic substances were disposed on, or released from, the property. A conveyance of the property, therefore, does not relieve the owner or operator from liability. As a current or former owner and operator of real estate, we may be required by law to investigate and clean up hazardous substances released at or from the properties we currently own or operate or have in the past owned or operated. We may also be liable to the government or to third parties for property damage, investigation costs and cleanup costs. In addition, some environmental laws create a lien on the contaminated site in favor of the government for damages and costs the government incurs in connection with the contamination. Contamination may adversely affect our ability to sell or lease real estate or to borrow using the real estate as collateral. We are not aware of any environmental liabilities relating to our investment properties which would have a material adverse effect on our business, assets, or results of operations. However, we cannot assure you that environmental liabilities will not arise in the future and that such liabilities will not have a material adverse effect on our business, assets or results of operation.

Actions by our competitors may decrease or prevent increases in the occupancy and rental rates of our properties. We compete with other owners and operators of real estate, some of which own properties similar to ours in the same submarkets in which our properties are located. If our competitors offer space at rental rates below current market rates or below the rental rates we currently charge our tenants, we may lose potential tenants, and we may be pressured to reduce our rental rates below those we currently charge in order to retain tenants when our tenants' leases expire. As a result, our financial condition, cash flow, cash available for distribution, market price of our preferred and common stock and ability to satisfy our debt service obligations could be materially adversely affected.

Coverage under our existing insurance policies may be inadequate to cover losses. We generally maintain insurance policies related to our business, including casualty, general liability and other policies, covering our business operations, employees and assets. However, we would be required to bear all losses that are not adequately covered by insurance. In addition, there are certain losses that are not generally insured because it is not economically feasible to insure against them, including losses due to riots or acts of war. If an uninsured loss or a loss in excess of insured limits occurs with respect to one or more of our properties, then we could lose the capital we invested in the properties, as well as the anticipated future revenue from the properties and, in the case of debt, which is with recourse to us, we would remain obligated for any mortgage debt or other financial obligations related to the properties. Although we believe that our insurance programs are adequate, we cannot assure you that we will not incur losses in

excess of our insurance coverage, or that we will be able to obtain insurance in the future at acceptable levels and reasonable costs.

We face risks associated with property acquisitions. We acquire individual properties and portfolios of properties, and intend to continue to do so. Our acquisition activities and their success are subject to the following risks:

- when we are able to locate a desired property, competition from other real estate investors may significantly increase the purchase price;
- acquired properties may fail to perform as expected;
- the actual costs of repositioning or redeveloping acquired properties may be higher than our estimates;
- acquired properties may be located in new markets where we face risks associated with an incomplete knowledge or understanding of the local market, a limited number of established business relationships in the area and a relative unfamiliarity with local governmental and permitting procedures;
- we may be unable to quickly and efficiently integrate new acquisitions, particularly acquisition of portfolios of properties, into our existing operations, and as a result, our results of operations and financial condition could be adversely affected; and
- we may acquire properties subject to liabilities and without any recourse, or with only limited recourse. As a result, if a claim were asserted against us based upon ownership of those properties, we might have to pay substantial sums to resolve it, which could adversely affect our cash flow.

Financing Risks

We face risks generally associated with our debt. We finance a portion of our investments in properties and marketable securities through debt. We are subject to the risks normally associated with debt financing, including the risk that our cash flow will be insufficient to meet required payments of principal and interest. In addition, debt creates risks, including:

- rising interest rates on our floating rate debt;
- failure to repay or refinance existing debt as it matures, which may result in forced disposition of assets on disadvantageous terms;
- refinancing terms less favorable than the terms of existing debt; and
- failure to meet required payments of principal and/or interest.

We mortgage our properties, which subjects us to the risk of foreclosure in the event of non-payment. We mortgage many of our properties to secure payment of indebtedness and if we are unable to meet mortgage payments, then the property could be foreclosed upon or transferred to the mortgagee with a consequent loss of income and asset value. A foreclosure of one or more of our properties could adversely affect our financial condition, results of operations, cash flow, ability to service debt and make distributions and the market price of our preferred and common stock.

We face risks related to “balloon payments.” Certain of our mortgages will have significant outstanding principal balances on their maturity dates, commonly known as “balloon payments.” There can be no assurance that we will be able to refinance the debt on favorable terms or at all. To the extent we cannot refinance debt on favorable terms or at all, we may be forced to dispose of properties on disadvantageous terms or pay higher interest rates, either of which would have an adverse impact on our financial performance and ability to service debt and make distributions.

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We face risks associated with our dependence on external sources of capital. In order to qualify as a REIT, we are required each year to distribute to our stockholders at least 90% of our REIT taxable income, and we are subject to tax on our income to the extent it is not distributed. Because of this distribution requirement, we may not be able to fund all future capital needs from cash retained from operations. As a result, to fund capital needs, we rely on third-party sources of capital, which we may not be able to obtain on favorable terms, if at all. Our access to third-party sources of capital depends upon a number of factors, including (i) general market conditions; (ii) the market's perception of our growth potential; (iii) our current and potential future earnings and cash distributions; and (iv) the market price of our capital stock. Additional debt financing may substantially increase our debt-to-total capitalization ratio. Additional equity issuance may dilute the holdings of our current stockholders.

We may become more highly leveraged. Our governing documents do not limit the amount of indebtedness we may incur. Accordingly, our board of directors may vote to incur additional debt and would do so, for example, if it were necessary to maintain our status as a REIT. We might become more highly leveraged as a result, and our financial condition and cash available for service of debt and distributions might be negatively affected and the risk of default on our indebtedness could increase.

Covenants in our credit agreements could limit our flexibility and adversely affect our financial condition. The terms of our various credit agreements and other indebtedness require us to comply with a number of customary financial and other covenants, such as maintaining debt service coverage and leverage ratios and maintaining insurance coverage. These covenants may limit our flexibility in our operations, and breaches of these covenants could result in defaults under the instruments governing the applicable indebtedness even if we had satisfied our payment obligations. If we were to default under credit agreements, our financial condition would be adversely affected.

Other Risks

Current economic conditions, including recent volatility in the capital and credit markets, could harm our business, results of operations and financial condition. The United States has experienced an economic recession with the capital and credit markets experiencing extreme volatility and disruption. The current economic environment has been affected by dramatic declines in the stock and housing markets, increases in foreclosures, unemployment and living costs as well as limited access to credit. This deteriorating economic situation has impacted and is expected to continue to impact consumer spending levels. A sustained economic downward trend could impact our tenants' ability to meet their lease obligations due to poor operating results, lack of liquidity, bankruptcy or other reasons. Our ability to lease space and negotiate rents at advantageous rates could also be affected in this type of economic environment. Additionally, if current levels of market volatility continue to worsen, access to capital and credit markets could be disrupted over a more extended period, which may make it difficult to obtain the financing we may need for future growth and/or to meet our debt service obligations as they mature. Any of these events could harm our business, results of operations and financial condition.

We may not be able to access adequate cash to fund our business. Our business requires access to adequate cash to finance our operations, distributions, capital expenditures, debt service obligations, development and redevelopment costs and property acquisition costs, if any. We expect to generate the cash to be used for these purposes primarily with operating cash flow, borrowings under secured term loans, proceeds from sales of strategically identified assets and, when market conditions permit, through the issuance of debt and equity securities from time to time. We may not be able to generate sufficient cash to fund our business, particularly if we are unable to renew leases, lease vacant space or re-lease space as leases expire according to expectations.

Moreover, difficult conditions in the financial markets, and the economy generally, have caused many lenders to suffer substantial losses, thereby causing many financial institutions to seek additional capital, to merge with other institutions and, in some cases, to fail. As a result, the real estate debt markets are experiencing a period of

uncertainty, which may reduce our access to funding alternatives, or our ability to refinance debt on favorable terms, or at all. In addition, market conditions, such as the current global economic environment, may also hinder our ability to sell strategically identified assets and access the debt and equity capital markets. If these conditions persist, we may need to find alternative ways to access cash to fund our business, including distributions to stockholders. Such alternatives may include, without limitation, curtailing development or redevelopment activity, disposing of one or more of our properties possibly on disadvantageous terms or entering into or renewing leases on

less favorable terms than we otherwise would, all of which could adversely affect our profitability. If we are unable to generate, borrow or raise adequate cash to fund our business through traditional or alternative means, our business, operations, financial condition and distributions to stockholders will be adversely affected.

We are dependent on key personnel. Our executive and other senior officers have a significant role in our success. Our ability to retain our management group or to attract suitable replacements should any members of the management group leave is dependent on the competitive nature of the employment market. The loss of services from key members of the management group or a limitation in their availability could adversely affect our financial condition and cash flow. Further, such a loss could be negatively perceived in the capital markets.

We may amend our business policies without your approval. Our board of directors determines our growth, investment, financing, capitalization, borrowing, REIT status, operations and distributions policies. Although our board of directors has no present intention to amend or reverse any of these policies, they may be amended or revised without notice to stockholders. Accordingly, stockholders may not have control over changes in our policies. We cannot assure you that changes in our policies will serve fully the interests of all stockholders.

The market value of our preferred and common stock could decrease based on our performance and market perception and conditions. The market value of our preferred and common stock may be based primarily upon the market's perception of our growth potential and current and future cash dividends, and may be secondarily based upon the real estate market value of our underlying assets. The market price of our preferred and common stock is influenced by their respective distributions relative to market interest rates. Rising interest rates may lead potential buyers of our stock to expect a higher distribution rate, which would adversely affect the market price of our stock. In addition, rising interest rates would result in increased expense, thereby adversely affecting cash flow and our ability to service our indebtedness and pay distributions.

There are restrictions on the transfer of our capital stock. To maintain our qualification as a REIT under the Code, no more than 50% in value of our outstanding capital stock may be owned, actually or by attribution, by five or fewer individuals, as defined in the Code to also include certain entities, during the last half of a taxable year. Accordingly, our charter and bylaws contain provisions restricting the transfer of our capital stock. See "Description of Capital Stock - Restrictions on Ownership and Transfer."

Our earnings are dependent, in part, upon the performance of our investment portfolio. As permitted by the Code, we invest in and own securities of other real estate investment trusts. To the extent that the value of those investments declines or those investments do not provide a return, our earnings and cash flow could be adversely affected.

We are subject to restrictions that may impede our ability to effect a change in control. Certain provisions contained in our charter and bylaws and certain provisions of Maryland law may have the effect of discouraging a third party from making an acquisition proposal for us and thereby inhibit a change in control. These provisions include the following:

- Our charter provides for three classes of directors with the term of office of one class expiring each year, commonly referred to as a "staggered board." By preventing common stockholders from voting on the election of more than one class of directors at any annual meeting of stockholders, this provision may have the effect of keeping the current members of our board of directors in control for a longer period of time than stockholders may desire.

- Our charter generally limits any holder from acquiring more than 9.8% (in value or in number, whichever is more restrictive) of our outstanding equity stock (defined as all of our classes of capital stock, except our excess stock).

While this provision is intended to assure our ability to remain a qualified REIT for Federal income tax purposes, the ownership limit may also limit the opportunity for stockholders to receive a premium for their shares of common stock that might otherwise exist if an investor was attempting to assemble a block of shares in excess of 9.8% of the outstanding shares of equity stock or otherwise effect a change in control.

- The request of the holders of a majority or more of our common stock is necessary for stockholders to call a special meeting. We also require advance notice by common stockholders for the nomination of directors or proposals of business to be considered at a meeting of stockholders.

Our Board of Directors may authorize and issue securities without stockholder approval. Under our Charter, the board has the power to classify and reclassify any of our unissued shares of capital stock into shares of capital stock with such preferences, rights, powers and restrictions as the board of directors may determine. The authorization and issuance of a new class of capital stock could have the effect of delaying or preventing someone from taking control of us, even if a change in control were in our stockholders' best interests.

Maryland business statutes may limit the ability of a third party to acquire control of us. Maryland law provides protection for Maryland corporations against unsolicited takeovers by limiting, among other things, the duties of the directors in unsolicited takeover situations. The duties of directors of Maryland corporations do not require them to (a) accept, recommend or respond to any proposal by a person seeking to acquire control of the corporation, (b) authorize the corporation to redeem any rights under, or modify or render inapplicable, any stockholders rights plan, (c) make a determination under the Maryland Business Combination Act or the Maryland Control Share Acquisition Act, or (d) act or fail to act solely because of the effect of the act or failure to act may have on an acquisition or potential acquisition of control of the corporation or the amount or type of consideration that may be offered or paid to the stockholders in an acquisition. Moreover, under Maryland law the act of a director of a Maryland corporation relating to or affecting an acquisition or potential acquisition of control is not subject to any higher duty or greater scrutiny than is applied to any other act of a director. Maryland law also contains a statutory presumption that an act of a director of a Maryland corporation satisfies the applicable standards of conduct for directors under Maryland law.

The Maryland Business Combination Act provides that unless exempted, a Maryland corporation may not engage in business combinations, including mergers, dispositions of 10 percent or more of its assets, certain issuances of shares of stock and other specified transactions, with an "interested stockholder" or an affiliate of an interested stockholder for five years after the most recent date on which the interested stockholder became an interested stockholder, and thereafter unless specified criteria are met. An interested stockholder is generally a person owning or controlling, directly or indirectly, 10 percent or more of the voting power of the outstanding stock of the Maryland corporation. In our charter, we have expressly elected that the Maryland Business Combination Act not govern or apply to any transaction with UMH, a Maryland corporation.

We cannot assure you that we will be able to pay dividends regularly. Our ability to pay dividends in the future is dependent on our ability to operate profitably and to generate cash from our operations and the operations of our subsidiaries. We cannot guarantee that we will be able to pay dividends on a regular quarterly basis in the future.

If our leases are not respected as true leases for federal income tax purposes, we would fail to qualify as a REIT. To qualify as a REIT, we must, among other things, satisfy two gross income tests, under which specified percentages of our gross income must be passive income, such as rent. For the rent paid pursuant to our leases, to qualify for purposes of the gross income tests, the leases must be respected as true leases for federal income tax purposes and not be treated as service contracts, joint ventures or some other type of arrangement. We believe that our leases will be respected as true leases for federal income tax purposes. However, there can be no assurance that the Internal Revenue Service ("IRS") will agree with this view. If the leases are not respected as true leases for federal income tax purposes, we would not be able to satisfy either of the two gross income tests applicable to REITs, and we would most likely lose our REIT status.

Failure to make required distributions would subject us to additional tax. In order to qualify as a REIT, we must, among other requirements, distribute, each year, to our stockholders at least 90 percent of our taxable income,

excluding net capital gains. To the extent that we satisfy the 90 percent distribution requirement, but distribute less than 100 percent of our taxable income, we will be subject to federal corporate income tax on our undistributed income. In addition, we will incur a 4 percent nondeductible excise tax on the amount, if any, by which our distributions (or deemed distributions) in any year are less than the sum of:

- 85 percent of our ordinary income for that year;
- 95 percent of our capital gain net earnings for that year; and
- 100 percent of our undistributed taxable income from prior years.

To the extent we pay out in excess of 100 percent of our taxable income for any tax year, we may be able to carry forward such excess to subsequent years to reduce our required distributions in such years. We intend to pay out our income to our stockholders in a manner intended to satisfy the distribution requirement. Differences in timing between the recognition of income and

the related cash receipts or the effect of required debt amortization payments could require us to borrow money or sell assets to pay out enough of our taxable income to satisfy the distribution requirement and to avoid corporate income tax.

We may not have sufficient cash available from operations to pay distributions, and, therefore, distributions may be made from borrowings. The actual amount and timing of distributions will be determined by our board of directors in its discretion and typically will depend on the amount of cash available for distribution, which will depend on items such as current and projected cash requirements and tax considerations. As a result, we may not have sufficient cash available from operations to pay distributions as required to maintain our status as a REIT. Therefore, we may need to borrow funds to make sufficient cash distributions in order to maintain our status as a REIT, which may cause us to incur additional interest expense as a result of an increase in borrowed funds for the purpose of paying distributions.

We may be required to pay a penalty tax upon the sale of a property. The federal income tax provisions applicable to REITs provide that any gain realized by a REIT on the sale of property held as inventory or other property held primarily for sale to customers in the ordinary course of business is treated as income from a "prohibited transaction" that is subject to a 100 percent penalty tax. Under current law, unless a sale of real property qualifies for a safe harbor, the question of whether the sale of real estate or other property constitutes the sale of property held primarily for sale to customers is generally a question of the facts and circumstances regarding a particular transaction. We intend that we and our subsidiaries will hold the interests in the real estate for investment with a view to long-term appreciation, engage in the business of acquiring and owning real estate, and make occasional sales as are consistent with our investment objectives. We do not intend to engage in prohibited transactions. We cannot assure you, however, that we will only make sales that satisfy the requirements of the safe harbors or that the IRS will not successfully assert that one or more of such sales are prohibited transactions.

We may fail to qualify as a REIT. If we fail to qualify as a REIT, we will not be allowed to deduct distributions to stockholders in computing our taxable income and will be subject to Federal income tax, including any applicable alternative minimum tax, at regular corporate rates. In addition, we might be barred from qualification as a REIT for the four years following disqualification. The additional tax incurred at regular corporate rates would reduce significantly the cash flow available for distribution to stockholders and for debt service.

Furthermore, we would no longer be required to make any distributions to our stockholders as a condition to REIT qualification. Any distributions to stockholders would be taxable as ordinary income to the extent of our current and accumulated earnings and profits, although such dividend distributions would be subject to a top federal tax rate of 15% through 2010. Corporate distributees, however, may be eligible for the dividends received deduction on the distributions, subject to limitations under the Code.

To qualify as a REIT, we must comply with certain highly technical and complex requirements. We cannot be certain we have complied, and will always be able to comply, with the requirements to qualify as a REIT because there are few judicial and administrative interpretations of these provisions. In addition, facts and circumstances that may be beyond our control may affect our ability to continue to qualify as a REIT. We cannot assure you that new legislation, regulations, administrative interpretations or court decisions will not change the tax laws significantly with respect to our qualification as a REIT or with respect to the Federal income tax consequences of qualification. We believe that we have qualified as a REIT since our inception and intend to continue to qualify as a REIT. However, we cannot assure you that we are qualified or will remain qualified.

There is a risk of changes in the tax law applicable to real estate investment trusts. Because the Internal Revenue Service, the United States Treasury Department and Congress frequently review federal income tax legislation, we cannot predict whether, when or to what extent new federal tax laws, regulations, interpretations or rulings will be adopted. Any of such legislative action may prospectively or retroactively modify our tax treatment and, therefore, may adversely affect taxation of us and/or our investors.

We may be unable to comply with the strict income distribution requirements applicable to REITs. To maintain qualification as a REIT under the Code, a REIT must annually distribute to its stockholders at least 90% of its REIT taxable income, excluding the dividends paid deduction and net capital gains. This requirement limits our ability to accumulate capital. We may not have sufficient cash or other liquid assets to meet the distribution requirements. Difficulties in meeting the distribution requirements might arise due to competing demands for our funds or to timing differences between tax reporting and cash receipts and disbursements, because income may have to be reported before cash is received, because expenses may have to be paid before a deduction is allowed, because deductions may be disallowed or limited or because the Internal Revenue Service may make a determination that adjusts reported income. In those situations, we might be required to borrow funds or sell properties on adverse terms in order to meet the distribution requirements and interest and penalties could apply which could adversely affect our financial condition. If we fail to make a required distribution, we would cease to be taxed as a REIT.

Notwithstanding our status as a REIT, we are subject to various federal, state and local taxes on our income and property. For example, we will be taxed at regular corporate rates on any undistributed taxable income, including undistributed net capital gains, provided; however, that properly designated undistributed capital gains will effectively avoid taxation at the stockholder level. We may be subject to other Federal income taxes as more fully described in "Material United States Federal Income Tax Consequences-Taxation of Us as a REIT." We may also have to pay some state income or franchise taxes because not all states treat REITs in the same manner as they are treated for Federal income tax purposes.

DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

From time to time, we may make forward-looking statements (within the meaning of Section 27A of the Securities Act and Section 21F of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) in documents filed under the Securities Act, the Exchange Act, press releases or other public statements with respect to our financial condition, results of operations and business. Words such as "anticipates," "expects," "intends," "plans," "believes," "seeks," "estimates," "could," "may," and similar expressions, and the negatives of such words and expressions as they relate to us or our management are intended to identify forward-looking statements. These forward-looking statements are not guarantees of future performance. Potential investors should not place undue reliance on forward-looking statements as they involve numerous risks and uncertainties that could cause actual results to differ materially from the results stated or implied in the forward-looking statements. If we make forward-looking statements, we assume no obligation to update forward-looking statements. In evaluating the securities offered by this prospectus, you should carefully consider the discussion of risks and uncertainties in the section entitled "Risk Factors" beginning on page 2 of this prospectus and those in the documents we incorporate by reference that could cause actual results to differ materially from the results contemplated by the forward-looking statements.

USE OF PROCEEDS

Unless otherwise described in the applicable prospectus supplement, we intend to use the net proceeds of any sale of securities for working capital and general corporate purposes, including, without limitation, the development and acquisition of additional properties in the ordinary course of our business.

RATIO OF EARNINGS TO FIXED CHARGES AND COMBINED FIXED CHARGES

AND PREFERRED STOCK DIVIDENDS

The following table sets forth our consolidated ratio of earnings to fixed charges and combined fixed charges and preferred stock dividends for the nine months ended June 30, 2009, and for each of the last five fiscal years.

	Nine Months Ended June 30, 2009	Year Ended September 30, 2008	2007	2006	2005	2004
Ratio of Earnings to Fixed Charges	0.97	1.28	1.62	1.60	1.94	1.87
Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends	0.83	1.08	1.34	1.60	1.94	1.87

For the purpose of computing these ratios, earnings have been calculated by adding pre-tax income from continuing operations before adjustment for income or loss from equity investees; fixed charges; amortization of capitalized interest; distributed income of equity investees; and the Company's share of pre-tax losses of equity investees for which charges arising from guarantees are included in fixed charges; and subtracting from the total of those items capitalized interest; preference security dividend requirements of consolidated subsidiaries; and the noncontrolling interest in pre-tax income of subsidiaries that have not incurred fixed charges. Fixed charges consist of the sum of interest costs, whether expensed or capitalized, the estimated interest component of rental expenses, amortized premiums, discounts and capitalized expenses related to indebtedness, and preference security dividend requirements of consolidated subsidiaries. Preferred stock dividends are the amount of pre-tax earnings that are required to pay the dividends on outstanding preferred securities.

For the nine months ended June 30, 2009, the dollar amount of the deficiency is $ 290,487 for the ratio of earnings to fixed charges and is $ 2,181,398 for the ratio of earnings to combined fixed charges and preferred stock dividends.

DESCRIPTION OF CAPITAL STOCK

The following description is only a summary of certain terms and provisions of our capital stock. You should refer to our charter and bylaws for a complete description.

General. Our authorized capital stock consists of 41,322,500 shares, classified as 35,000,000 shares of common stock, par value $0.01 per share, and 5,000,000 shares of excess stock, par value $0.01 per share, and 1,322,500 shares of 7.625% Series A Cumulative Redeemable Preferred Stock, par value $0.01 per share, $25 liquidation value per share, ("Series A Preferred Stock"). The excess stock is designed to protect our status as a REIT under the Code. See "—Restrictions on Ownership and Transfer."

As of August 3, 2009, 25,332,551 and 25,327,551 shares of common stock were issued and outstanding, respectively and no shares of excess stock were issued and outstanding. Our outstanding shares of common stock are currently listed on the Nasdaq Global Select Market under the symbol "MNRTA." As of August 3, 2009, 1,322,500 shares of our Series A Preferred Stock were issued and outstanding. Our outstanding shares of Series A Preferred Stock are currently listed on the Nasdaq Global Select Market under the symbol "MNRTP." We intend to apply to the Nasdaq Global Select Market to list any additional shares of preferred or common stock offered pursuant to any prospectus supplement, and we anticipate that such shares will be so listed.

Under Maryland General Corporation Law ("MGCL") and our charter, a majority of our entire board of directors has the power, without action by the stockholders, to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that we have the authority to issue. Our board of directors is also authorized under the MGCL and our charter to classify and reclassify any unissued shares of our common stock and preferred stock into other classes or series of stock. Before issuance of shares of each class or series, our board of directors is required by the MGCL and our charter to set, subject to restrictions in our charter on transfer of our stock, the terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to

dividends or other distributions, qualifications and terms and conditions of redemption for each class or series. Thus, our board of directors could authorize the issuance of shares of stock with terms and conditions that could have the effect of delaying, deferring or preventing a transaction or a change in control that might involve a premium price for holders of our common stock or otherwise be in their best interest.

Our management believes that the power to issue additional shares of stock and to classify or reclassify unissued shares of stock and thereafter to issue the classified or reclassified shares provides us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs which might arise. These actions can be taken without stockholders approval, unless stockholders approval is required by applicable law or the rules of any stock exchange or automated quotation system on which shares of our stock may be listed or traded. Although we have no present intention of doing so, we could issue a class or series of stock that could delay, defer or prevent a transaction or a change in control that might involve a premium price for holders of our common stock or otherwise be in their best interest.

Restrictions on Ownership and Transfer. To qualify as a REIT under the Code, we must satisfy a number of statutory requirements, including a requirement that no more than 50% in value of our outstanding shares of stock may be owned, actually or constructively, by five or fewer individuals (as defined by the Code to include certain entities) during the last half of a taxable year. In addition, if we, or an actual or constructive owner of 10% or more of us, actually or constructively owns 10% or more of a tenant of ours (or a tenant of any partnership in which we are a partner), the rent we receive (either directly or through any such partnership) from such tenant will not be qualifying income for purposes of the REIT gross income tests of the Code. Our capital stock must also be beneficially owned by 100 or more persons during at least 335 days of a taxable year of twelve months or during a proportionate part of a shorter taxable year.

Our charter prohibits any transfer of shares of our stock or any other change in our capital structure that would result in:

- any person directly or indirectly acquiring beneficial ownership of more than 9.8% of the outstanding shares of our stock (other than shares of excess stock);
- outstanding shares of our stock (other than shares of excess stock) being constructively or beneficially owned by fewer than 100 persons;
- us being “closely held” within the meaning of Section 856 of the Code; or
- us otherwise failing to qualify as a REIT under the Code.

Our charter requires that any person who acquires or attempts to acquire shares of our stock (other than shares of excess stock), in violation of these restrictions, which we refer to as the ownership limits, give at least 15 days’ prior written notice to us. If any person attempts to transfer shares of our stock, or attempts to cause any other event to occur, that would result in a violation of the ownership limits, then:

- any proposed transfer will be void ab initio, the purported transferee of such shares will acquire no interest in the shares and the shares that were subject to the attempted transfer or other event will, effective as of the close of business on the business day before the date of the attempted transfer or other event, automatically, without action by us or any other person, be converted into and

exchanged for an equal number of shares of excess stock;

- we may redeem any shares of excess stock and, before the attempted transfer or other event that results in a conversion into and exchange for shares of excess stock, any shares of our stock of any other class or series that are attempted to be owned or transferred in violation of the ownership limits, at a price equal to the lesser of the price per share paid in the attempted transfer or other event that violated the ownership limits and the last reported sales price of shares of such class of our stock on the NASDAQ Global Select Market on the day we give notice of redemption or, if shares of such class of our stock are not then traded on the

NASDAQ Global Select Market the market price of such shares determined in accordance with our charter; and

- our board of directors may take any action it deems advisable to refuse to give effect to, or to prevent, any such attempted transfer or other event.

Shares of excess stock will be held in book entry form in the name of a trustee appointed by us to hold the excess shares for the benefit of one or more charitable beneficiaries appointed by us and a beneficiary designated by the purported transferee, which we refer to as the designated beneficiary, whose ownership of the shares of our stock that were converted into and exchanged for excess stock does not violate the ownership limits. The purported transferee may not receive consideration in exchange for designating the designated beneficiary in an amount that exceeds the price per share that the purported transferee paid for the shares of our stock converted into and exchanged for shares of excess stock or, if the purported transferee did not give value for such shares, the market price of the shares on the date of the purported transfer or other event resulting in the conversion and exchange. Any excess amounts received by the purported transferee as consideration for designating the designated beneficiary must be paid to the trustee for the benefit of the charitable beneficiary. Upon the written designation of a designated beneficiary and the waiver by us of our right to redeem the shares of excess stock, the trustee will transfer the shares of excess stock to the designated beneficiary and, upon such transfer, the shares of excess stock will automatically be converted into and exchanged for the number and class of shares of our stock as were converted into and exchanged for such shares of excess stock. Shares of excess stock are not otherwise transferable. If the purported transferee attempts to transfer shares of our stock before discovering that the shares have been converted into and exchanged for shares of excess stock, the shares will be deemed to have been sold on behalf of the trust and any amount received by the purported transferee in excess of what the purported transferee would have been entitled to receive as consideration for designating a designated beneficiary will be paid to the trustee on demand.

Holders of shares of excess stock are not entitled to vote on any matter submitted to a vote at a meeting of our stockholders. Upon the voluntary or involuntary liquidation, dissolution or winding up of the company, the trustee must distribute to the designated beneficiary any amounts received as a distribution on the shares of excess stock that do not exceed the price per share paid by the purported transferee in the transaction that created the violation or, if the purported transferee did not give value for such shares, the market price of the shares of our stock that were converted into and exchanged for shares of excess stock, on the date of the purported transfer or other event that resulted in such conversion and exchange. Any amount received upon the voluntary or involuntary liquidation, dissolution or winding up of the company not payable to the designated beneficiary, and any other dividends or distributions paid on shares of excess stock, will be distributed by the trustee to the charitable beneficiary.

Every holder of more than 5% of the number or value of outstanding shares of our stock must give written notice to us stating the name and address of such owner, the number of shares of stock beneficially or constructively owned and a description of the manner in which the shares are owned. Our board of directors may, in its sole and absolute discretion, exempt certain persons from the ownership limitations contained in our charter if ownership of shares of capital stock by such persons would not disqualify us as a REIT under the Code.

Description of Common Stock

Relationship of Common Stock and Preferred Stock. The rights of holders of common stock will be subject to, and may be adversely affected by, the rights of holders of outstanding preferred stock and preferred stock that may be issued in the future. Our board of directors may cause preferred stock to be issued to obtain additional capital, in connection with acquisitions, to our officers, directors and employees pursuant to benefit plans or otherwise and for other corporate purposes. Both our preferred stock and our common stock are subject to certain ownership restrictions

designed to help us maintain our qualification as a REIT under the Code, which are described under “Description of Capital Stock - Restrictions on Ownership and Transfer.”

Preferences, Sinking Fund Provisions and Preemptive Rights. The shares of common stock will, when issued, be fully-paid and non-assessable and will have no preferences, conversion, sinking fund, redemption rights

(except with respect to shares of excess stock, described above) or preemptive rights to subscribe for any of our securities.

Voting Rights. Subject to the provisions of our charter regarding restrictions on transfer and ownership of shares of common stock, our common stockholders will have one vote per share on all matters submitted to a vote of the common stockholders, including the election of directors. Except as provided with respect to any other class or series of capital stock, the holders of common stock will possess the exclusive voting power.

There is no cumulative voting in the election of directors, which means that the holders of a plurality of the outstanding shares of common stock can elect all of the directors then standing for election and the holders of the remaining shares of common stock, if any, will not be able to elect any directors, except as otherwise provided for in any other class or series of our capital stock, including any preferred stock.

Distributions. Subject to any preferential rights granted to any class or series of our capital stock, including any preferred stock, and to the provisions of our charter regarding restrictions on transfer and ownership of shares of common stock, holders of our common stock will be entitled to receive dividends or other distributions if, as and when declared, by our board of directors out of funds legally available for dividends or other distributions to stockholders. Subject to the provisions in our charter regarding restrictions on ownership and transfer, all shares of our common stock have equal distribution rights. In the event of our liquidation, dissolution or winding up, after payment of any preferential amounts to any class of preferred stock which may be outstanding and after payment of, or adequate provision for, all of our known debts and liabilities, holders of common stock and excess stock will be entitled to share ratably in all assets that we may legally distribute to our stockholders.

Stockholder Liability. Under Maryland law, holders of our common stock will not be liable for our obligations solely as a result of their status as a stockholder.

Transfer Agent. The registrar and transfer agent for shares of our common stock is American Stock Transfer & Trust Company.

Description of Preferred Stock

The following description, together with the additional information we include in any applicable prospectus supplement, summarizes the material terms and provisions of the preferred stock that we may offer under this prospectus. While the terms we have summarized below will apply generally to any future preferred stock we may offer, we will describe the particular terms of any preferred stock that we may offer in more detail in the applicable prospectus supplement. The terms of any preferred stock we offer under that prospectus may differ from the terms we describe below.

General. Shares of preferred stock may be issued from time to time, in one or more series, as authorized by our board of directors. Before issuance of shares of each series, the board of directors is required to fix for each such series, subject to the provisions of MGCL and our charter, the powers, designations, preferences and relative, participating, optional or other special rights of such series and qualifications, limitations or restrictions thereof, including such provisions as may be desired concerning voting, redemption, dividends, dissolution or the distribution of assets, conversion or exchange, and such other matters as may be fixed by resolution of the board of directors or a duly authorized committee thereof. The preferred stock could have voting or conversion rights that could adversely affect the voting power or other rights of holders of our common stock. Also, the issuance of preferred stock could decrease the amount of earnings and assets available for distribution to holders of our common stock. The board of directors could authorize the issuance of shares of preferred stock with terms and conditions which could have the effect of discouraging a takeover or other transaction which holders of some, or a majority of, shares of common stock might

believe to be in their best interests, or in which holders of some, or a majority of, shares of common stock might receive a premium for their shares of common stock over the then market price of such shares.

The shares of preferred stock will, when issued, be fully-paid and non-assessable and will have no preemptive rights. Under Maryland law, holders of our preferred stock generally are not responsible for our debts or obligations. Both our preferred stock and our common stock are subject to certain ownership restrictions

designed to help us maintain our qualification as a REIT under the Code, which are described under "Description of Capital Stock - Restrictions on Ownership and Transfer."

The prospectus supplement relating to any shares of preferred stock offered thereby will contain the specific terms, including:

- the title and stated value of such shares of preferred stock;
- the number of such shares of preferred stock offered, the liquidation preference per share and the offering price of such shares of preferred stock;
- the dividend rate(s), period(s) and/or payment date(s) or method(s) of calculation thereof applicable to such shares of preferred stock;
- the date from which dividends on such shares of preferred stock will accumulate, if applicable;
- the procedures for any auction and remarketing, if any, for such shares of preferred stock;
- the provision for a sinking fund, if any, for the shares of preferred stock;
- the provisions for redemption, if applicable, of the shares of preferred stock;
- whether or not any restrictions on the repurchase or redemption of shares exists while there is any arrearage in the payment of dividends or sinking fund installments;
- any listing of the shares of preferred stock on any securities exchange;
- the terms and conditions, if applicable, upon which the shares of preferred stock will be convertible into shares of our common stock, including the conversion price (or manner of calculation thereof);
- a discussion of Federal income tax considerations applicable to such shares of preferred stock;
- the relative ranking and preferences of such shares of preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs;
- any limitations on issuance of any series of shares of preferred stock ranking senior to or on a parity with such series of shares of preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs;
- any limitations on direct or beneficial ownership and restrictions on transfer of such shares of preferred stock, in each case as may be appropriate to preserve our status as a REIT; and
- the voting rights, if any, of such shares of preferred stock; and
- any other specific terms, preferences, rights, limitations or restrictions of such shares of preferred stock.

The registrar and transfer agent for shares of preferred stock will be set forth in the applicable prospectus supplement.

Rank. Unless otherwise specified in the applicable prospectus supplement, the preferred stock ranks, with respect to dividend rights and rights upon our liquidation, dissolution or winding-up, and allocation of our earnings and losses: (i) senior to all classes or series of our common stock, and to all equity securities ranking junior to the

preferred stock; (ii) on a parity with all equity securities issued by us the terms of which specifically provide that such equity securities rank on a parity with the preferred stock; and (iii) junior to all equity securities issued by us the terms of which specifically provide that such equity securities rank senior to the preferred stock.

Distributions. Subject to any preferential rights of any outstanding securities or series of securities, the holders of preferred stock will be entitled to receive dividends, when and as authorized by our board of directors, out of legally available funds, and share pro rata the amount to be distributed to such class or series of preferred stock based on the number of shares of preferred stock of the same class or series outstanding. Distributions will be made at such rates and on such dates as will be set forth in the applicable prospectus supplement

Voting Rights. Unless otherwise indicated in the applicable prospectus supplement, holders of our preferred stock will not have any voting rights.

Liquidation Preference. Upon any voluntary or involuntary liquidation, dissolution or winding-up of our affairs, and before any distribution or payment shall be made to the holders of any common stock or any other class or series of stock ranking junior to our preferred stock, the holders of our preferred stock shall be entitled to receive, after payment or provision for payment of our debts and other liabilities, out of our assets legally available for distribution to stockholders, liquidating distributions in the amount of the liquidation preference per share, if any, set forth in the applicable prospectus supplement, plus an amount equal to all dividends accrued and unpaid thereon (which shall not include any accumulation in respect of unpaid noncumulative dividends for prior dividend periods). After payment of the full amount of the liquidating distributions to which they are entitled, the holders of preferred stock will have no right or claim to any of our remaining assets. In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding-up of our affairs, the legally available assets are insufficient to pay the amount of the liquidating distributions on all of our outstanding preferred stock and the corresponding amounts payable on all of our other outstanding equity securities ranking on a parity with the preferred stock in the distribution of assets upon our liquidation, dissolution or winding-up of our affairs, then the holders of our preferred stock and the holders of such other outstanding equity securities shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they would otherwise be respectively entitled.

If liquidating distributions are made in full to all holders of our preferred stock, our remaining assets shall be distributed among the holders of any other classes or series of equity securities ranking junior to the preferred stock in the distribution of assets upon our liquidation, dissolution or winding-up of our affairs, according to their respective rights and preferences and in each case according to their respective number of shares of stock.

If we consolidate or merge with or into, or sell, lease or convey all or substantially all of our property or business to, any corporation, trust or other entity, such transaction shall not be deemed to constitute a liquidation, dissolution or winding-up of our affairs.

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

Redemption. If so provided in the applicable prospectus supplement, our preferred stock will be subject to mandatory redemption or redemption at our option, in whole or in part, in each case upon the terms, at the times and at the redemption prices set forth in such prospectus supplement.

Stockholder Liability. Under Maryland law, holders of our preferred stock will not be liable for our obligations solely as a result of their status as a stockholder.

Transfer Agent. The registrar and transfer agent for our preferred stock will be set forth in the applicable prospectus supplement.

The description of the provisions of the shares of preferred stock set forth in this prospectus and in any related prospectus supplement is only a summary, does not purport to be complete and is subject to, and is qualified in its entirety by, reference to the definitive articles supplementary to our charter relating to such series of shares of preferred stock. You should read these documents carefully to fully understand the terms of the shares of preferred stock. In connection with any offering of shares of preferred stock, articles supplementary will be filed with the SEC as an exhibit or incorporated by reference in the Registration Statement.

Series A Cumulative Redeemable Preferred Stock. On November 30, 2006, we issued 1,150,000 shares of our Series A Preferred Stock in a public offering. The Series A Preferred Stock, $.01 par value per share, has a liquidation preference of $25.00 per share. Dividends on the Series A Preferred Stock are cumulative, accrue from the date of issuance and are payable quarterly in arrears at a rate of $1.90625 per share per annum. We generally must be current in our dividend payments on the Series A Cumulative Redeemable Preferred Stock in order to pay dividends on our common stock. The holders of Series A Cumulative Redeemable Preferred Stock have no voting rights, other than limited voting rights concerning the election of additional directors in the event of certain preferred dividend arrearages. The Series A Cumulative Redeemable Preferred Stock has no stated maturity, is not subject to any sinking fund or mandatory redemption, and is not convertible into any other securities of the Company. The Series A Cumulative Redeemable Preferred Stock may not be redeemed by the Company prior to December 5, 2011. At that time, we will have the right to redeem the shares, in whole or in part, at any time for a cash redemption price of $25.00 per share plus accrued and unpaid dividends.

DESCRIPTION OF DEBT SECURITIES

The following description, together with the additional information we include in any applicable prospectus supplements, summarizes the material terms and provisions of the debt securities that we may offer under this prospectus. While the terms we have summarized below will generally apply to any future debt securities we may offer under this prospectus, we will describe the particular terms of any debt securities that we may offer in more detail in the applicable prospectus supplement. The terms of any debt securities we offer under a prospectus supplement may differ from the terms we describe below.

We will issue the senior debt securities under a senior indenture which we will enter into with the trustee named in the senior indenture. We will issue the subordinated debt securities under a subordinated indenture which we will enter into with the trustee named in the subordinated indenture. We have filed forms of these documents as exhibits to the registration statement of which this prospectus is a part. The terms of any indenture that we enter into may differ from the terms we describe below. We use the term “indentures” to refer to both the senior indenture and the subordinated indenture.

The indentures will be qualified under the Trust Indenture Act of 1939 (the “Trust Indenture Act”). We use the term “debenture trustee” to refer to either the senior trustee or the subordinated trustee, as applicable.

The following summaries of material provisions of the senior debt securities, the subordinated debt securities and the indentures are subject to, and qualified in their entirety by reference to, all the provisions of the indenture applicable to a particular series of debt securities. We urge you to read the applicable prospectus supplements related to the debt securities that we sell under this prospectus, as well as the complete indentures that contain the terms of the debt securities. Except as we may otherwise indicate, the terms of the senior indenture and the subordinated indenture are identical.

General. The debt securities will be direct, unsecured obligations of the Company and may either be senior or subordinated debt securities. We will describe in the applicable prospectus supplement the terms relating to a series of debt securities, including:

- the title;
- the principal amount being offered, and, if a series, the total amount authorized and the total amount outstanding;

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- any limit on the amount that may be issued;
- whether or not we will issue the series of debt securities in global form and, if so, the terms and who the depositary will be;
- the maturity date;
- the principal amount due at maturity, and whether the debt securities will be issued with any original issue discount;
- whether and under what circumstances, if any, we will pay additional amounts on any debt securities held by a person who is not a United States person for tax purposes, and whether we can redeem the debt securities if we have to pay such additional amounts;
- the annual interest rate, which may be fixed or variable, or the method for determining the rate, the date interest will begin to accrue, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining such dates;
- the terms of the subordination of any series of subordinated debt;
- the aggregate amount of indebtedness that would be senior to the subordinated debt and a description of any limitation on the issuance of such additional senior indebtedness (or a statement that there is no such limitation);
- the place where payments will be payable;
- restrictions on transfer, sale or other assignment, if any;
- our right, if any, to defer payment of interest and the maximum length of any such deferral period;
- the date, if any, after which, the conditions upon which, and the price at which we may, at our option, redeem the series of debt securities pursuant to any optional or provisional redemption provisions, and any other applicable terms of those redemption provisions;
- provisions for a sinking fund, purchase or other analogous fund, if any;
- the date, if any, on which, and the price at which we are obligated, pursuant to any mandatory sinking fund or analogous fund provisions or otherwise, to redeem, or at the security holder’s option to purchase, the series of debt securities;
- whether the indenture will restrict our ability and/or the ability of our subsidiaries to:

- o incur additional indebtedness;
- o issue additional securities;
- o create liens;

  - pay dividends and make distributions in respect of our capital stock;
  - redeem capital stock;
  - make investments or other restricted payments;
  - sell or otherwise dispose of assets;
  - engage in transactions with stockholders and affiliates; or
  - effect a consolidation or merger;

- whether the indenture will require us to maintain any interest coverage, fixed charge, cash flow-based, asset-based or other financial ratios or to maintain reserves;
- a discussion of any material or special United States federal income tax considerations applicable to the debt securities;
- information describing any book-entry features;
- the procedures for any auction and remarketing, if any;
- the denominations in which we will issue the series of debt securities, if other than denominations of $1,000 and any integral multiple thereof;
- if other than dollars, the currency in which the series of debt securities will be denominated;
- any other specific terms, preferences, rights or limitations of, or restrictions on, the debt securities, including any events of default that are in addition to those described in this prospectus or any covenants provided with respect to the debt securities that are in addition to those described above, and any terms which may be required by us or advisable under applicable laws or regulations or advisable in connection with the marketing of the debt securities; and
- the name of any trustee(s) and the nature of any material relationships with the trustee, the percentage of securities of the class necessary to require the trustee to take action and what indemnification the trustee may require before proceeding to enforce any liens.

Conversion or Exchange Rights. We will set forth in the prospectus supplement the terms on which a series of debt securities may be convertible into or exchangeable for our common stock or other securities of ours or a third party, including the conversion or exchange rate, as applicable, or how it will be calculated, and the applicable conversion or exchange period. We will include provisions as to whether conversion or exchange is mandatory, at the option of the security holder or at our option. We may include provisions pursuant to which the number of our securities or the securities of a third party that the security holders of the series of debt securities receive upon conversion or exchange would, under the circumstances described in those provisions, be subject to adjustment, or pursuant to which those

security holders would, under those circumstances, receive other property upon conversion or exchange, for example in the event of our merger or consolidation with another entity.

Consolidation, Merger or Sale. The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part do not contain any covenant which restricts our ability to merge or consolidate, or sell, convey, transfer or otherwise dispose of all or substantially all of our assets. However, any

successor of ours or acquiror of such assets must assume all of our obligations under the indentures and the debt securities.

If the debt securities are convertible for our other securities, the person with whom we consolidate or merge or to whom we sell all of our property must make provision for the conversion of the debt securities into securities which the security holders of the debt securities would have received if they had converted the debt securities before the consolidation, merger or sale.

Events of Default. The following are events of default under the indentures with respect to any series of debt securities that we may issue:

- if we fail to pay interest when due and payable and our failure continues for 90 days and the time for payment has not been extended or deferred;
- if we fail to pay the principal, or premium, if any, when due and payable and the time for payment has not been extended or delayed;
- if we fail to observe or perform any other covenant contained in the debt securities or the indentures, other than a covenant specifically relating to another series of debt securities, and our failure continues for 90 days after we receive notice from the debenture trustee or stockholders of at least 25% in aggregate principal amount of the outstanding debt securities of the applicable series; and
- if specified events of bankruptcy, insolvency or reorganization occur.

If an event of default with respect to debt securities of any series occurs and is continuing, other than an event of default specified in the last bullet point above, the debenture trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series, by notice to us in writing, and to the debenture trustee if notice is given by such security holders, may declare the unpaid principal of, premium, if any, and accrued interest, if any, due and payable immediately. If an event of default specified in the last bullet point above occurs with respect to us, the principal amount of and accrued interest, if any, of each issue of debt securities then outstanding shall be due and payable without any notice or other action on the part of the debenture trustee or any security holder.

The security holders of a majority in principal amount of the outstanding debt securities of an affected series may waive any default or event of default with respect to the series and its consequences, except defaults or events of default regarding payment of principal, premium, if any, or interest, unless we have cured the default or event of default in accordance with the indenture.

Subject to the terms of the indentures, if an event of default under an indenture shall occur and be continuing, the debenture trustee will be under no obligation to exercise any of its rights or powers under such indenture at the request or direction of any of the security holders of the applicable series of debt securities, unless such security holders have offered the debenture trustee reasonable indemnity. The security holders of a majority in principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the debenture trustee, or exercising any trust or power conferred on the debenture trustee, with respect to the debt securities of that series, provided that:

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the direction so given by the security holder is not in conflict with any law or the applicable indenture; and

- subject to its duties under the Trust Indenture Act, the debenture trustee need not take any action that might involve it in personal liability or might be unduly prejudicial to the security holders not involved in the proceeding.

A security holder of the debt securities of any series will only have the right to institute a proceeding under the indentures or to appoint a receiver or trustee, or to seek other remedies if:

- the security holder has given written notice to the debenture trustee of a continuing event of default with respect to that series;
- the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series have made written request, and such security holders have offered reasonable indemnity to the debenture trustee to institute the proceeding as trustee; and
- the debenture trustee does not institute the proceeding, and does not receive from the security holders of a majority in aggregate principal amount of the outstanding debt securities of that series other conflicting directions within 90 days after the notice, request and offer.

These limitations do not apply to a suit instituted by a holder of debt securities if we default in the payment of the principal, premium, if any, or interest on, the debt securities.

We will periodically file statements with the debenture trustee regarding our compliance with specified covenants, if any, in the indentures.

Modification of Indenture; Waiver. We and the debenture trustee may change an indenture without the consent of any security holders with respect to specific matters, including:

- to fix any ambiguity, defect or inconsistency in the indenture;
- to comply with the provisions described above under “Consolidation, Merger or Sale”;
- to comply with any requirements of the SEC in connection with the qualification of any indenture under the Trust Indenture Act;
- to evidence and provide for the acceptance of appointment hereunder by a successor trustee;
- to provide for uncertificated debt securities and to make all appropriate changes for such purpose;
- to add to, delete from, or revise the conditions, limitations and restrictions on the authorized amount, terms or purposes of issuance, authorization and delivery of debt securities of any series;
- to add to our covenants such new covenants, restrictions, conditions or provisions for the protection of the security holders, to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an event of default, or to surrender any of our rights or powers under the indenture; or

- to change anything that does not harm the interests of any holder of debt securities of any series.

In addition, under the indentures, the rights of holders of a series of debt securities may be changed by us and the debenture trustee with the written consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series that is affected. However, we and the debenture trustee may only make the following changes with the consent of each security holder of any outstanding debt securities affected:

- extending the fixed maturity of the series of debt securities;

- reducing the principal amount, reducing the rate of or extending the time of payment of interest, or reducing any premium payable upon the redemption of any debt securities; or

- reducing the percentage of debt securities, the holders of which are required to consent to any supplemental indenture.

Discharge. Each indenture provides that we can elect to be discharged from our obligations with respect to one or more series of debt securities, except for obligations to:

- register the transfer or exchange of debt securities of the series;

- replace stolen, lost or mutilated debt securities of the series;

- maintain paying agencies;

- hold monies for payment in trust;

- recover excess money held by the debenture trustee;

- compensate and indemnify the debenture trustee; and

- appoint any successor trustee.

In order to exercise our rights to be discharged, we must deposit with the debenture trustee money or government obligations sufficient to pay all the principal of, any premium, if any, and interest on, the debt securities of the series on the dates payments are due.

Form, Exchange and Transfer. We will issue the debt securities of each series only in fully registered form without coupons and, unless we otherwise specify in the applicable prospectus supplement, in denominations of $1,000 and any integral multiple thereof. The indentures provide that we may issue debt securities of a series in temporary or permanent global form and as book-entry securities that will be deposited with, or on behalf of, The Depository Trust Company or another depositary named by us and identified in a prospectus supplement with respect to that series.

At the option of the security holder, subject to the terms of the indentures and the limitations applicable to global securities described in the applicable prospectus supplement, the holder of the debt securities of any series can exchange the debt securities for other debt securities of the same series, in any authorized denomination and of like tenor and aggregate principal amount.

Subject to the terms of the indentures and the limitations applicable to global securities set forth in the applicable prospectus supplement, holders of the debt securities may present the debt securities for exchange or for registration of transfer, duly endorsed or with the form of transfer endorsed thereon duly executed if so required by us or the security registrar, at the office of the security registrar or at the office of any transfer agent designated by us for this purpose. Unless otherwise provided in the debt securities that the security holder presents for transfer or exchange, we will make no service charge for any registration of transfer or exchange, but we may require payment of any taxes or other governmental charges.

We will name in the applicable prospectus supplement the security registrar, and any transfer agent in addition to the security registrar, that we initially designate for any debt securities. We may at any time designate

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additional transfer agents or rescind the designation of any transfer agent or approve a change in the office through which any transfer agent acts, except that we will be required to maintain a transfer agent in each place of payment for the debt securities of each series.

If we elect to redeem the debt securities of any series, we will not be required to:

- issue, register the transfer of, or exchange any debt securities of any series being redeemed in part during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of any debt securities that may be selected for redemption and ending at the close of business on the day of the mailing; or

- register the transfer of or exchange any debt securities so selected for redemption, in whole or in part, except the unredeemed portion of any debt securities we are redeeming in part.

Information Concerning the Debenture Trustee. The debenture trustee, other than during the occurrence and continuance of an event of default under an indenture, undertakes to perform only those duties as are specifically set forth in the applicable indenture. Upon an event of default under an indenture, the debenture trustee must use the same degree of care as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the debenture trustee is under no obligation to exercise any of the powers given it by the indentures at the request of any security holder of debt securities unless it is offered reasonable security and indemnity against the costs, expenses and liabilities that it might incur.

Payment and Paying Agents. Unless we otherwise indicate in the applicable prospectus supplement, we will make payment of the interest on any debt securities on any interest payment date to the person in whose name the debt securities, or one or more predecessor securities, are registered at the close of business on the regular record date for the interest.

We will pay principal of and any premium and interest on the debt securities of a particular series at the office of the paying agents designated by us, except that, unless we otherwise indicate in the applicable prospectus supplement, we may make interest payments by check which we will mail to the security holder or by wire transfer to certain security holders. We will name in the applicable prospectus supplement the paying agents that we initially designate for the debt securities of a particular series. We will maintain a paying agent in each place of payment for the debt securities of a particular series.

All money we pay to a paying agent or the debenture trustee for the payment of the principal of or any premium or interest on any debt securities which remains unclaimed at the end of two years after such principal, premium or interest has become due and payable will be repaid to us, and the holder of the debt security thereafter may look only to us for payment thereof.

Governing Law. The indentures and the debt securities will be governed by and construed in accordance with the laws of the State of New York, except to the extent that the Trust Indenture Act is applicable.

Subordination of Subordinated Debt Securities. The subordinated debt securities will be subordinate and junior in priority of payment to certain of our other indebtedness to the extent described in a prospectus supplement. The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part do not limit the amount of indebtedness which we may incur, including senior indebtedness or subordinated indebtedness, and do not limit us from issuing any other debt, including secured debt or unsecured debt.

CERTAIN PROVISIONS OF MARYLAND LAW AND OUR CHARTER AND BY-LAWS

The following is a summary of certain provisions of the MGCL and our charter and bylaws. Because this description is only a summary, it does not contain all the information about the MGCL or our charter and bylaws that may be important to you. In particular, you should refer to, and this summary as qualified in its entirety by

reference to the MGCL and our charter, including any articles supplementary, and bylaws. You should read these documents carefully to fully understand the terms of Maryland law, our charter and our bylaws.

The Board of Directors. Our board of directors is currently comprised of thirteen directors. Our charter and bylaws provide that the board may alter the number of directors to a number not exceeding 15 or less than three. Our charter provides that the members of the board shall be divided, as evenly as possible, into three classes, with approximately one-third of the directors elected by the stockholders annually. Each director will serve for a three year term or until his or her successor is duly elected and has qualified. Holders of shares will have no right to cumulative voting in the election of directors.

Business Combinations. Under the Maryland Business Combination Act, business combinations between a Maryland corporation and an interested stockholder or an affiliate of an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. These business combinations include a merger, consolidation, share exchange, or, in circumstances specified in the statute, an asset transfer or issuance or reclassification of equity securities. An interested stockholder is defined as:

- any person who beneficially owns 10% or more of the voting power of the corporation's shares; or

- an affiliate or associate of the corporation who, at any time within the two-year period before the date in question, was the beneficial owner of 10% or more of the voting power of the then outstanding voting stock of the corporation.

A person is not an interested stockholder under the statute if the board of directors approves in advance the transaction by which the person otherwise would have become an interested stockholder. However, in approving a transaction, the board of directors may provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by the board.

After the five-year prohibition, any business combination between the Maryland corporation and an interested stockholder generally must be recommended by the board of directors of the corporation and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation; and

- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested stockholder with whom or with whose affiliate the business combination is to be effected or held by an affiliate or associate of the interested stockholder.

These supermajority vote requirements do not apply if the corporation's common stockholders receive a minimum price, as defined under the MGCL, for their shares of common stock in the form of cash or other consideration in the same form as previously paid by the interested stockholder for its shares.

The MGCL permits various exemptions from its provisions, including business combinations that are exempted by the board of directors before the time that the interested stockholder becomes an interested stockholder. Pursuant to the act, our charter exempts any business combination between us and UMH. Consequently, the five-year prohibition and

the supermajority vote requirements will not apply to business combinations between us and UMH.

Control Share Acquisitions. The provisions of the Maryland Control Share Acquisition Act provide that control shares of a Maryland corporation acquired in a control share acquisition have no voting rights except to the extent approved by a vote of two-thirds of the votes entitled to be cast on the matter. Shares owned by the acquiror, by officers or by directors who are employees of the corporation are excluded from shares entitled to vote on the matter. Control shares are voting shares of stock which, if aggregated with all other shares of stock owned by the acquiror or in respect of which the acquiror is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise voting power in electing directors within one of the following ranges of voting power:

- one-tenth or more but less than one-third;
- one-third or more but less than a majority; or
- a majority or more of all voting power.

Control shares do not include shares that the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. A control share acquisition means, subject to certain exceptions, the acquisition of control shares.

A person who has made or proposes to make a control share acquisition may compel the board of directors of the corporation to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. The right to compel the calling of a special meeting is subject to the satisfaction of certain conditions, including an undertaking to pay the expenses of the meeting. If no request for a meeting is made, the corporation may itself present the question at any stockholders' meeting.

If voting rights are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by the statute, then the corporation may redeem for fair value any or all of the control shares, except those for which voting rights have previously been approved. The right of the corporation to redeem control shares is subject to certain conditions and limitations. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquiror or of any meeting of stockholders at which the voting rights of the shares are considered and not approved. If voting rights for control shares are approved at a stockholders meeting and the acquiror becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of appraisal rights may not be less than the highest price per share paid by the acquiror in the control share acquisition.

The control share acquisition statute does not apply (a) to shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction or (b) to acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws contain a provision exempting from the provisions of the Control Share Acquisition Act any and all acquisitions by any person of shares of our stock. There can be no assurance that our board of directors will not eliminate this provision at any time in the future.

Unsolicited Takeovers Act. Subtitle 8 of Title 3 of the MGCL permits a Maryland corporation with a class of equity securities registered under the Exchange Act and at least three independent directors to elect to be subject, by provision in its charter or bylaws or a resolution of its board of directors and notwithstanding any contrary provision in the charter or bylaws, to any or all of five provisions:

- a classified board;
- a two-thirds vote requirement for removing a director;
- a requirement that the number of directors be fixed only by vote of the directors;
- a requirement that a vacancy on the board be filled only by the affirmative vote of a majority of the remaining directors in office and for the remainder of

the full term of the class of directors in which the vacancy occurred; and

- a requirement that a special meeting of stockholders may occur if at least a majority of stockholders request such in writing.

Through provisions in our charter and bylaws unrelated to Subtitle 8, we already (a) have a classified board, (b) require a two-thirds vote for the removal of any director from the board, (c) vest in the board the exclusive power to fix the number of directors and (d) require, unless called by its president, the chairman of the board or a majority of the board of directors, the request of stockholders entitled to cast a majority of the votes entitled to be cast at such meeting to call a special meeting of stockholders. We have elected to be governed by the provision of Subtitle 8 providing that a vacancy on its board of directors may be filled only by the remaining directors, for the remainder of the full term of the class of directors in which the vacancy occurred.

Advance Notice of Director Nominations and New Business. Our bylaws provide that, with respect to an annual meeting of our stockholders, nominations of individuals for election to our board of directors and the proposal of business to be considered by stockholders at an annual meeting may be made only (i) pursuant to the notice of the meeting, (ii) by our board of directors or (iii) by one of our stockholders who is entitled to vote at the meeting and who has complied with the advance notice procedures of the bylaws. With respect to special meetings of our stockholders, only the business specified in the notice of the meeting may be brought before the meeting. Nominations of individuals for election to our board of directors at a special meeting of its stockholders may be made only (i) pursuant to the notice of the meeting, (ii) by the board of directors or (iii) provided that the board of directors has determined that directors will be elected at the meeting, by a stockholder who is entitled to vote at the meeting and who has complied with the advance notice provisions of the bylaws.

Meetings of Stockholders. Under our bylaws, annual meetings of stockholders are to be held each year at a date and time as determined by our board of directors. Special meetings of stockholders may be called only by a majority of the directors then in office, by the chairman of our board of directors or by the president and must be called by the secretary upon the written request of stockholders entitled to cast a majority of the votes entitled to be cast at the meeting.

Amendment of Charter and Bylaws. Our charter generally may be amended only upon approval of the board of directors and the affirmative vote of stockholders entitled to cast not less than two-thirds of all the votes entitled to be cast on the matter. Under the MGCL, certain charter amendments may be effected by the board of directors, without stockholder approval, such as an amendment changing the name of the corporation or an amendment increasing or decreasing the number of its authorized shares of stock. Our bylaws may be amended only by vote of a majority of the board of directors.

Dissolution. Our dissolution must be advised by a majority of our entire board of directors and approved by the affirmative vote of stockholders entitled to cast not less than two thirds of all of the votes entitled to be cast on the matter.

Removal of Directors. Our charter provides that a director may be removed only for cause, as defined in the charter, and only by the affirmative vote of stockholders entitled to cast not less than two-thirds of the votes entitled to be cast in the election of directors, generally. This provision, when coupled with the subtitle 8 election vesting in our board of directors the sole power to fill vacant directorships, precludes stockholders from removing incumbent directors except for cause and by a substantial affirmative vote and from filling the vacancies created by the removal with their own nominees.

MATERIAL UNITED STATES FEDERAL INCOME TAX CONSEQUENCES

Introductory Notes

The following is a description of the material Federal income tax considerations to a holder of our securities. An applicable prospectus supplement will contain information about additional Federal income tax considerations, if any,

relating to particular offerings of our securities. The following discussion is not exhaustive of all possible tax considerations and does not provide a detailed discussion of any state, local or foreign tax considerations, nor does it discuss all of the aspects of Federal income taxation that may be relevant to a prospective security holder in light of his or her particular circumstances or to stockholders (including insurance companies, tax exempt entities, financial institutions or broker-dealers, foreign corporations, and persons who are not citizens or residents of the United States) who are subject to special treatment under the Federal income tax laws.

Husch Blackwell Sanders LLP has provided an opinion to the effect that this discussion, to the extent that it contains descriptions of applicable Federal income tax law, is correct in all material respects and fairly summarizes in all material respects the Federal income tax laws referred to herein. This opinion is limited to this discussion under the heading "Material United States Federal Income Tax Consequences" and is filed as an exhibit to the registration statement of which this prospectus is a part. This opinion, however, does not purport to address the actual tax consequences of the purchase, ownership and disposition of our common stock, preferred stock, or debt securities to any particular holder. The opinion, and the information in this section, is based on the Code, current, temporary and proposed Treasury Regulations, the legislative history of the Code, current administrative interpretations and practices of the Internal Revenue Service, and court decisions. The reference to Internal Revenue Service interpretations and practices includes Internal Revenue Service practices and policies as endorsed in private letter rulings, which are not binding on the Internal Revenue Service except with respect to the taxpayer that receives the ruling. In each case, these sources are relied upon as they exist on the date of this prospectus. No assurance can be given that future legislation, regulations, administrative interpretations and court decisions will not significantly change current law, or adversely affect existing interpretations of existing law, on which the opinion and the information in this section are based. Any change of this kind could apply retroactively to transactions preceding the date of the change. Moreover, opinions of counsel merely represent counsel’s best judgment with respect to the probable outcome on the merits and are not binding on the Internal Revenue Service or the courts. Accordingly, even if there is no change in applicable law, no assurance can be provided that such opinion, or the statements made in the following discussion, will not be challenged by the Internal Revenue Service or will be sustained by a court if so challenged.

Each prospective purchaser is advised to consult the applicable prospectus supplement, as well as his or her own tax advisor, regarding the specific tax consequences to him or her of the acquisition, ownership and sale of securities of an entity electing to be taxed as a real estate investment trust, including the Federal, state, local, foreign, and other tax consequences of such acquisition, ownership, sale, and election and of potential changes in applicable tax laws.

Taxation of Us as a REIT

General. We have elected to be taxed as a REIT under Sections 856 through 860 of the Code, commencing with our taxable year which ended September 30, 1968. Our qualification and taxation as a REIT depends upon our ability to meet on a continuing basis, through actual annual operating results, distribution levels and diversity of stock ownership, the various qualification tests and organizational requirements imposed under the Code, as discussed below. We believe that we are organized and have operated in such a manner as to qualify under the Code for taxation as a REIT since our inception, and we intend to continue to operate in such a manner. No assurances, however, can be given that we will operate in a manner so as to qualify or remain qualified as a REIT. See “Failure to Qualify” below.

The following is a general summary of the material Code provisions that govern the Federal income tax treatment of a REIT and its security holders. These provisions of the Code are highly technical and complex. This summary is qualified in its entirety by the applicable Code provisions, the Treasury Regulations, and administrative and judicial interpretations thereof.

Husch Blackwell Sanders LLP has provided to us an opinion to the effect that we have been organized and have operated in conformity with the requirements for qualification and taxation as a REIT, effective for each of our taxable years ended September 30, 2005 through September 30, 2008, and our current and proposed organization and method of operation will enable us to continue to meet the requirements for qualification and taxation as a REIT for our taxable year ending September 30, 2009 and thereafter. This opinion is filed as an exhibit to the registration statement of which this prospectus is a part. It must be emphasized that this opinion is conditioned upon certain assumptions and representations made by us to Husch Blackwell Sanders LLP as to factual matters relating to our organization and operation. Since qualification as a REIT requires us to satisfy certain income and asset tests throughout the fiscal year ending September 30, 2009, Husch Blackwell Sanders LLP’s opinion is based upon

assumptions and our representations as to future conduct, income and assets. In addition, this opinion is based upon our factual representations concerning our business and properties as described in the reports filed by us under the federal securities laws.

Qualification and taxation as a REIT depends upon our ability to meet on a continuing basis, through actual annual operating results, the various requirements under the Code described in this prospectus with regard to, among other things, the sources of our gross income, the composition of our assets, our distribution levels, and our diversity of stock ownership. Husch Blackwell Sanders LLP will not review our operating results on an ongoing basis. While we intend to operate so that we qualify as a REIT, given the highly complex nature of the rules governing REITs, the ongoing importance of factual determinations, and the possibility of future changes in our circumstances, no assurance can be given that we satisfy all of the tests for REIT qualification or will continue to do so.

If we qualify for taxation as a REIT, we generally will not be subject to Federal corporate income taxes on net income that we currently distribute to stockholders. This treatment substantially eliminates the "double taxation" (at the corporate and stockholder levels) that generally results from investment in a corporation.

Notwithstanding our REIT election, however, we will be subject to Federal income tax in the following circumstances. First, we will be taxed at regular corporate rates on any undistributed taxable income, including undistributed net capital gains, provided, however, that properly designated undistributed capital gains will effectively avoid taxation at the stockholder level. Second, under certain circumstances, we may be subject to the "alternative minimum tax" on any items of tax preference and alternative minimum tax adjustments. Third, if we have (i) net income from the sale or other disposition of "foreclosure property" (which is, in general, property acquired by foreclosure or otherwise on default of a loan secured by the property) that is held primarily for sale to customers in the ordinary course of business or (ii) other non-qualifying income from foreclosure property, we will be subject to tax at the highest corporate rate on such income. Fourth, if we have net income from prohibited transactions (which are, in general, certain sales or other dispositions of property (other than foreclosure property) held primarily for sale to customers in the ordinary course of business), such income will be subject to a 100% tax on prohibited transactions. Fifth, if we should fail to satisfy the 75% gross income test or the 95% gross income test (as discussed below), and have nonetheless maintained our qualification as a REIT because certain other requirements have been met, we will be subject to a tax in an amount equal to the greater of either (i) the amount by which 75% of our gross income exceeds the amount qualifying under the 75% test for the taxable year or (ii) the amount by which 95% of our gross income exceeds the amount of our income qualifying under the 95% test for the taxable year, multiplied in either case by a fraction intended to reflect our profitability. Sixth, if we should fail to satisfy any of the asset tests (as discussed below) for a particular quarter and do not qualify for certain de minimis exceptions but have nonetheless maintained our qualification as a REIT because certain other requirements are met, we will be subject to a tax equal to the greater of (i) $50,000 or (ii) the amount determined by multiplying the highest corporate tax rate by the net income generated by certain disqualified assets for a specified period of time. Seventh, if we fail to satisfy REIT requirements other than the income or asset tests but nonetheless maintain our qualification because certain other requirements are met, we must pay a penalty of $50,000 for each such failure. Eighth, if we should fail to distribute during each calendar year at least the sum of (i) 85% of our REIT ordinary income for such year; (ii) 95% of our REIT capital gain net income for such year (For this purpose such term includes capital gains which we elect to retain but which we report as distributed to our stockholders. See "Annual Distribution Requirements" below); and (iii) any undistributed taxable income from prior years, we would be subject to a 4% excise tax on the excess of such required distribution over the amounts actually distributed. Ninth, if we acquire 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 our hands is determined by reference to the basis of the asset (or any other property) in the hands of the C corporation, and we recognize gain on the disposition of such asset during the 10-year period (temporarily shortened to a 7-year period for any taxable year beginning in 2009 or 2010 if the seventh year preceded such taxable year) beginning on the date on which such asset was acquired by us, then, to the extent of such property's built-in gain (the excess of the fair market value of such property at the time of acquisition by us over the adjusted basis of such property at such time), such gain will be subject to tax at the highest regular corporate rate applicable assuming that we made or would make an election pursuant to Notice 88-19 or Treasury Regulations that were promulgated originally in 2000. Tenth, we would be subject to a 100% penalty tax on amounts received (or on certain expenses deducted by a taxable REIT subsidiary) if

arrangements among us, our tenants and a taxable REIT subsidiary were not comparable to similar arrangements among unrelated parties.

Requirements for Qualification

The Code defines a REIT as a corporation, trust or association (i) which is managed by one or more trustees or directors; (ii) the beneficial ownership of which is evidenced by transferable shares or by transferable

certificates of beneficial interest; (iii) which would be taxable as a domestic corporation but for Code Sections 856 through 859; (iv) which is neither a financial institution nor an insurance company subject to certain provisions of the Code; (v) the beneficial ownership of which is held by 100 or more persons; (vi) of which not more than 50% in value of the outstanding capital stock is owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities) during the last half of each taxable year after applying certain attribution rules; (vii) that makes an election to be treated as a REIT for the current taxable year or has made an election for a previous taxable year which has not been terminated or revoked and (viii) which meets certain other tests, described below, regarding the nature of its income and assets. The Code provides that conditions (i) through (iv), inclusive, must be met during the entire taxable year and that condition (v) 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. Condition (vi) must be met during the last half of each taxable year. For purposes of determining stock ownership under condition (vi), a supplemental unemployment compensation benefits plan, a private foundation or a portion of a trust permanently set aside or used exclusively for charitable purposes generally is considered an individual. However, a trust that is a qualified trust under Code Section 401(a) generally is not considered an individual, and beneficiaries of a qualified trust are treated as holding shares of a REIT in proportion to their actuarial interests in the trust for purposes of condition (vi). Conditions (v) and (vi) do not apply until after the first taxable year for which an election is made to be taxed as a REIT. We have issued sufficient common stock with sufficient diversity of ownership to allow us to satisfy requirements (v) and (vi). In addition, our charter contains restrictions regarding the transfer of our stock intended to assist in continuing to satisfy the stock ownership requirements described in (v) and (vi) above. These restrictions, however, may not ensure that we will be able to satisfy these stock ownership requirements. If we fail to satisfy these stock ownership requirements, we will fail to qualify as a REIT.

In addition, if a corporation elected to be a REIT subsequent to October 4, 1976, it must have as its taxable year the calendar year. We elected to be classified as a REIT prior to that date. Consequently, our taxable year ends September 30.

To qualify as a REIT, we cannot have at the end of any taxable year any undistributed earnings and profits that are attributable to a non-REIT taxable year. We believe that we have complied with this requirement.

For our tax years beginning prior to January 1, 1998, pursuant to applicable Treasury Regulations, to be taxed as a REIT, we were required to maintain certain records and request on an annual basis certain information from our stockholders designed to disclose the actual ownership of our outstanding shares. For our tax years beginning January 1, 1998 and after, these records and informational requirements are no longer a condition to REIT qualification. Instead, a monetary penalty will be imposed for failure to comply with these requirements. We have complied with such requirements. If we comply with these regulatory rules, and we do not know, or exercising reasonable diligence would not have known, whether we failed to meet requirement (vi) above, we will be treated as having met the requirement.

Qualified REIT Subsidiaries

If a REIT owns a corporate subsidiary that is a “qualified REIT subsidiary,” the separate existence of that subsidiary generally will be disregarded for Federal income tax purposes. Generally, a qualified REIT subsidiary is a corporation, other than a taxable REIT subsidiary, all of the capital stock of which is owned by the REIT. All assets, liabilities and items of income, deduction and credit of the qualified REIT subsidiary will be treated as assets, liabilities and items of income, deduction and credit of the REIT itself. A qualified REIT subsidiary of ours will not be subject to Federal corporate income taxation, although it may be subject to state and local taxation in some states.

Taxable REIT Subsidiaries

A “taxable REIT subsidiary” is an entity taxable as a corporation in which we own stock and that elects with us to be treated as a taxable REIT subsidiary under Section 856(l) of the Code. In addition, if one of our taxable

REIT subsidiaries owns, directly or indirectly, securities representing more than 35% of the vote or value of a subsidiary corporation, that subsidiary will also be treated as a taxable REIT subsidiary of ours. A taxable REIT subsidiary is subject to Federal income tax, and state and local income tax where applicable, as a regular “C” corporation.

Generally, a taxable REIT subsidiary can perform certain impermissible tenant services without causing us to receive impermissible tenant services income under the REIT income tests. However, several provisions regarding the arrangements between a REIT and its taxable REIT subsidiaries ensure that a taxable REIT subsidiary will be subject to an appropriate level of Federal income taxation. For example, a taxable REIT subsidiary is limited in its ability to deduct interest payments made to us. In addition, we will be obligated to pay a 100% penalty tax on some payments that we receive or on certain expenses deducted by the taxable REIT subsidiary if the economic arrangements among us, our tenants and the taxable REIT subsidiary are not comparable to similar arrangements among unrelated parties. We currently have a taxable REIT subsidiary, MREIC Financial, Inc., and may establish additional taxable REIT subsidiaries in the future.

Income Tests

In order for us to maintain qualification as a REIT, two separate percentage tests relating to the source of our gross income must be satisfied annually. First, at least 75% of our gross income (excluding gross income from prohibited transactions) for each taxable year generally must be derived directly or indirectly from investments relating to real property or mortgages on real property (including "rents from real property," gain, and, in certain circumstances, interest) or from certain types of temporary investments. Second, at least 95% of our gross income (excluding gross income from prohibited transactions) for each taxable year must be derived from such real property investments described above, dividends, interest and gain from the sale or disposition of stock or securities, or from any combination of the foregoing.

Rents received by us will qualify as "rents from real property" in satisfying the above gross income tests only if several conditions are met. First, the amount of rent generally must not be based in whole or in part on the income or profits of any person. However, amounts received or accrued generally will not be excluded from "rents from real property" solely by reason of being based on a fixed percentage or percentages of receipts or sales.

Second, rents received from a tenant will not qualify as "rents from real property" if we, or a direct or indirect owner of 10% or more of our stock, actually or constructively own 10% or more of such tenant (a "Related Party Tenant"). We may, however, lease our properties to a taxable REIT subsidiary and rents received from that subsidiary generally will not be disqualified from being "rents from real property" by reason of our ownership interest in the subsidiary if at least 90% of the property in question is leased to unrelated tenants and the rent paid by the taxable REIT subsidiary is substantially comparable to the rent paid by the unrelated tenants for comparable space, as determined pursuant to the rules in Section 856(d)(8).

Third, if rent attributable to personal property that is 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." This 15% test is based on relative fair market values of the real and personal property.

Generally, for rents to qualify as "rents from real property" for the purposes of the gross income tests, we are only allowed to provide services that are both "usually or customarily rendered" in connection with the rental of real property and not otherwise considered "rendered to the occupant." Income received from any other service will be treated as "impermissible tenant service income" unless the service is provided, in the case of impermissible services that are customary, through an independent contractor that bears the expenses of providing the services and from whom we derive no revenue or, in the case of even non-customary impermissible services, through a taxable REIT subsidiary, subject to specified limitations. The amount of impermissible tenant service income we receive is deemed to be the greater of the amount actually received by us or 150% of our direct cost of providing the service. If the impermissible tenant service income exceeds 1% of our total income from a property, then all of the income from that property will fail to qualify as rents from real property. If the total amount of impermissible tenant service income from a property

does not exceed 1% of our total income from that property, the income will not cause the rent paid by tenants of that property to fail to qualify as rents from real property, but the impermissible tenant service income itself will not qualify as rents from real property.

In addition to being structured to satisfy the above listed conditions, our leases will be structured with the intent to qualify as true leases for Federal income tax purposes. If, however, our leases were recharacterized as

service contracts or partnership agreements, rather than true leases, or disregarded altogether for tax purposes, all or part of the payments that we, our applicable subsidiary or other lessor entity receives from the lessees would not be considered rent or would not otherwise satisfy the various requirements for qualification as “rents from real property.” In that case, we very likely would not be able to satisfy either the 75% or 95% gross income tests and, as a result, could lose our REIT status.

If we fail to satisfy one or both of the 75% or 95% gross income tests for any taxable year, we may nevertheless qualify as a REIT for such year if we are entitled to relief under certain provisions of the Code. Prior to October 22, 2004, with respect to failures occurring on or before that date but in tax years beginning after October 4, 1976, or, with respect to tax years beginning before October 4, 1976, as a result of a determination occurring after October 4, 1976, these relief provisions generally were available if our failure to meet such tests was due to reasonable cause and not due to willful neglect, if we attach a schedule of the nature and amount of our income to our Federal income tax return for such years, and if any incorrect information on the schedules was not due to fraud with intent to evade tax. After October 22, 2004, the relief provisions generally will be available with respect to a failure to meet such tests if our failure was due to reasonable cause and not due to willful neglect, and, following the REIT’s identification of the failure to meet either of the gross income tests, a description of each item of the REIT’s gross income is set forth in a schedule for the relevant taxable year that is filed in accordance with the applicable regulations. It is not possible, however, to state whether in all circumstances we would be entitled to the benefit of these relief provisions. As discussed above in “Taxation of Us as a REIT,” even if these relief provisions were to apply, a tax would be imposed equal to the excess impermissible gross income multiplied by a fraction intended to reflect our profitability.

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Approve agenda for Board meetings.

Authority to call meetings of non-management directors and, as appropriate, set the agenda.

Preside over shareholder meetings.

Preside at all meetings of non-management directors and at all executive sessions of non-management directors.

Facilitate and participate in formal and informal communications with and among directors.

Act as Chairman of the Nominating Committee.

Liaison between the Chairman and Board members and facilitate communication among full Board.

Review interested party communications directed to Board and take appropriate action.

Retain outside advisors and consultants who report directly to the Board on board-wide issues.

The Board believes that the roles of a combined Chairman/CEO and an independent Lead Director having the duties described above serve the interests of our shareholders because this structure provides an appropriate balance between strategy development and independent oversight of management.

Thomas Jorden was elected Chief Executive Officer on September 30, 2011 and Chairman of the Board on August 14, 2012. He has served as an executive officer of Cimarex since its formation in 2002. He has considerable knowledge and experience gained through his executive positions with Cimarex and prior industry experience. This knowledge and experience allow him to focus the activities of the Board on matters most relevant to the success of Cimarex.

Our Board structure is designed to avoid any undue influence by the Chairman of the Board/CEO on the Board. The Compensation and Governance Committee is comprised entirely of independent Directors. When the Board acts on the Compensation and Governance Committee s recommendation for compensation of the Chairman/CEO, it acts without him being present.

The substantial experience and background of our independent Board members ensure their active and knowledgeable involvement in Board matters. This involvement, and the presence and involvement of our Lead Director, provide the Board with a strong and independent point of view.

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Board Committees

The table below provides 2013 membership and meeting information for each of the Board Committees:

NAME	AUDIT	COMP/GOV	NOMINATING
Jerry Box		X	X
Hans Helmerich		X	X
David Hentschel		X	X
Harold Logan	X		X
Floyd Price	X		X
Monroe Robertson	X		X
Michael Sullivan	X		X
L. Paul Teague		X	X
2013 Meetings Held	8	5	2

Audit Committee

The Audit Committee is comprised entirely of independent Directors and is governed by a Board-approved Charter stating its responsibilities. A copy of the Audit Committee Charter is available on our website at *www.cimarex.com*. Under its Charter, the Audit Committee performs the following functions:

- Appoints independent auditors;
- Approves the nature and scope of services of independent auditors and reviews range of fees for such services;
- Oversees internal audit function;
- Reviews qualification and independence of auditors;
- Reviews and discusses with independent auditors (i) the auditors responsibilities and management s responsibilities in audit process, (ii) overall audit strategy, (iii) scope and timing of annual audit, and (iv) any significant risks identified during auditors risk assessment procedures;
- Monitors integrity of financial statements;
- Monitors compliance with legal and regulatory requirements; and
- Reviews and reports to Board on corporate and financial risk processes.

The Board of Directors has determined that each of the members of the Audit Committee is financially literate and independent as defined by the rules of the SEC and the NYSE. The Board has also determined that each of Messrs. Logan, Price and Robertson is an audit committee financial expert as defined by the SEC s rules.

Compensation and Governance Committee

The Compensation and Governance Committee is comprised entirely of independent Directors and is governed by a Board-approved Charter stating its responsibilities. A copy of the Compensation and Governance Committee Charter is available on our website at *www.cimarex.com*. Under its Charter, the Compensation and Governance Committee performs the following functions:

Compensation Functions

- Recommends CEO and executive officer cash compensation for approval by the Board;
- Recommends director compensation for approval by the Board;
- Reviews and recommends to the Board that the Compensation Discussion and Analysis be included in our proxy statement;
- Determines amount and terms of equity awards;
- Reviews and approves long-term incentive plans;
- Reviews relationship of compensation to risk; and
- Approves the nature and scope of services of independent compensation consultant.

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Governance Functions

- Oversees corporate governance;
- Develops plans for managerial succession; and
- Oversees annual Board and Committee evaluations.

Compensation and Governance Committee Interlocks and Insider Participation. Hans Helmerich, a member of the Committee, was an executive officer of Cimarex from February 14, 2002 until September 30, 2002. Cimarex was formed on February 14, 2002, as a wholly owned subsidiary of Helmerich & Payne, Inc. for the purpose of facilitating a spinoff by Helmerich & Payne of its oil and gas exploration and production business. Cimarex became a publicly traded company on September 30, 2002, at which time Mr. Helmerich resigned as an executive officer.

Nominating Committee

The Nominating Committee is comprised of all of the independent Directors and is governed by a Board-approved Charter stating its responsibilities. A copy of the Nominating Committee Charter is available on our website at *www.cimarex.com*. Under its Charter, the Nominating Committee performs the following functions:

- Determines desired Board skills and attributes;
- Recommends candidates to serve on the Board and to stand for election at annual meeting of shareholders or to fill a vacancy occurring between meetings; and
- Recommends Committee appointments.

Director Independence and Related Person Transactions

Our Corporate Governance Guidelines require that a majority of our Board of Directors be independent as defined by applicable laws, rules, regulations and listing standards. We comply with the criteria for independence established by the New York Stock Exchange (NYSE) listing requirements and other governing laws and regulations.

Each year the Compensation and Governance Committee reviews the independence of our directors and any related person transactions. On the basis of this review, the Committee delivers a report to the Board of Directors, and the Board makes independence determinations based on the Committee s report and supporting documents.

As a result of this review, the Board has affirmatively determined that Jerry Box, Hans Helmerich, David Hentschel, Harold Logan, Floyd Price, Monroe Robertson, Michael Sullivan and L. Paul Teague, representing eight of our ten Directors, are independent of Cimarex and its management. Thomas Jorden and Joseph Albi are not independent because of their employment as CEO and COO of Cimarex, respectively.

In making these determinations, the Board considered that in the ordinary course of business, relationships and transactions may occur between Cimarex and entities with which some of our Directors are or have been affiliated. As a result of the Committee s review, certain relationships and transactions are not considered to be material transactions that would impair a Director s independence, including the following:

- The Director is an employee of another company that does business with Cimarex, and our annual sales to or purchases from the other company amount to less than 2% of the annual revenues of the other company and that such sales to or purchases from the other company are part of our ordinary course of business and conducted in the same manner as we obtain services from other companies that provide similar services; or

- The Director is a director (but not an employee) of another company that does business with Cimarex.

Hans Helmerich is the Chairman of the Board and, until March 5, 2014, was the CEO of Helmerich & Payne, Inc., a company with which Cimarex engages in ordinary course of business transactions. During Helmerich & Payne s fiscal year ended September 30, 2013, Cimarex paid Helmerich & Payne $14.7 million for drilling rigs and services in arms length transactions and as part of our ordinary course of business and in the same manner as we obtain services from other companies that provide similar services. The aggregate amount of the payment represented 0.47% of Helmerich & Payne s revenue during that period. The Committee reviewed these transactions and concluded that (i) the transactions are proper and not material when compared to both Cimarex s total drilling costs and Helmerich & Payne s total revenues; (ii) the transactions occur in the ordinary course of business and at arms length; (iii) the Board does not review or approve drilling service contracts or arrangements; and

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(iv) Mr. Helmerich s relationship with Helmerich & Payne, Inc. does not interfere with his independent judgment as a director of Cimarex.

Risk Oversight

The Board has overall responsibility for risk oversight. In carrying out its responsibility, the Board has requested that the Audit Committee discuss with management and report to the Board with respect to:

- Processes Cimarex follows to mitigate corporate risks;
- Guidelines and processes pertaining to financial risk assessment;
- Steps management takes to measure, monitor and control such financial risk exposures; and
- Management s conclusion as to the effectiveness of the guidelines and processes utilized to mitigate such corporate and financial risks and exposures.

In addition, at each of its four meetings held during the year, management provides the Board with an overview of Cimarex s operations, financial results and other aspects of its business. Significant strategic considerations, such as material acquisitions or mergers are brought to the Board for deliberation and, as appropriate, decisions.

The Audit Committee, at its December 2013 meeting, reviewed, discussed and, at the February 25, 2014 meeting, reported to the Board about corporate, operational and financial risks and Cimarex s processes for mitigation of these risks.

Compensation Risk Oversight

In February 2014, the Compensation and Governance Committee performed a thorough review of the possible connection between incentives and excessive risk taking. The Committee s review covered Cimarex s compensation policies and practices covering executive and non-executive employees to determine whether the policies and practices encourage excessive risk taking by employees. The Committee s analysis included:

- What are the metrics for determining awards?
- Who are plan participants?
- How are the pools and individual awards determined?
- What is the maximum individual award potential (maximum individual incentive to take risk)?

- What is the maximum possible cost if awards were paid at maximum (maximum cost exposure)?
- What is the decision-making and approval process?
- What are the systemic limitations on the ability to take excessive risks in order to influence compensation?

The Committee determined that risks from compensation policies and practices for Cimarex employees are not reasonably likely to have a material adverse effect on Cimarex.

Executive Sessions

The non-employee members of the Board meet in executive session at each regularly scheduled Board meeting. The Lead Director presides over executive sessions. During 2013, four executive sessions were held, and all of the non-employee Directors attended each session. These sessions allow non-employee Directors to review the CEO s performance and his compensation, to discuss issues of importance to Cimarex, including the business and affairs of Cimarex, as well as matters concerning management, without any member of management present.

Shareholder Engagement

Cimarex s relationships with its shareholders are an important part of our corporate governance profile, and we recognize the value of taking their views into account. Engagement with shareholders helps us to understand the larger context and impact of our operations, learn about expectations for our performance, assess emerging issues that may affect our business or other aspects of our operations and shape corporate and governance policies.

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Consistent with our commitment to seek and respond to shareholder input on corporate governance topics, we have considered and discussed with investors a wide variety of matters, including our executive compensation program and disclosures and have previously made changes in these areas.

STOCK OWNERSHIP

DIRECTORS, MANAGEMENT AND CERTAIN BENEFICIAL OWNERS

Beneficial Ownership by Executive Officers and Directors

The following table shows, as of March 15, 2014, the number of shares of common stock beneficially owned, as determined in accordance with Rule 13d-3 under the Securities Exchange Act of 1934, by the NEOs, the directors, and all executive officers and directors, as a group:

Name of Beneficial Owner	Shares Owned(1)	Beneficial Ownership Total	Percent of Class
Named Executive Officers			
Thomas E. Jorden, CEO (also director)	230,544	230,544	<1%
Paul Korus, CFO	134,228	134,228	<1%
Joseph R. Albi, COO (also director)	160,748	160,748	<1%
Stephen P. Bell	136,327	136,327	<1%
John A. Lambuth	73,500	73,500	<1%
Directors			
Jerry Box	12,488	12,488	<1%
Hans Helmerich	464,315(2)	464,315(2)	<1%
David A. Hentschel	31,460	31,460	<1%
Harold R. Logan, Jr.	8,476	8,476	<1%
Floyd R. Price	4,868	4,868	<1%
Monroe W. Robertson	15,037	15,037	<1%
Michael J. Sullivan	17,234	17,234	<1%
L. Paul Teague	54,291(3)	54,291(3)	<1%
All executive officers and directors as a group (17 persons)	1,577,105	1,577,105	2%

(1) Includes restricted stock, direct and indirect ownership of common stock and equivalent shares of common stock held by the trustee for the benefit of the named individual in the Cimarex Energy Co. 401(k) Plan. Does not include deferred compensation units held by one director. There are no shares of common stock that could be purchased by the exercise of vested stock options within the 60-day period following March 15, 2014.

(2) Includes 11,450 shares owned by Mr. Helmerich s wife. Mr. Helmerich disclaims beneficial ownership of the shares held by his wife. Also includes 55,000 shares owned by The Helmerich Foundation, of which Mr. Helmerich is co-trustee, and 350,000 shares held by the Estate of W. H. Helmerich III, of which Mr. Helmerich is the trustee.

(3) Includes 9,066 shares owned by Mr. Teague s wife. Mr. Teague disclaims beneficial ownership of the shares held by his wife.

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Beneficial Ownership of More than Five Percent

Each of the following shareholders beneficially owns five percent or more of our outstanding shares of common stock. The following table provides information regarding their stock ownership and is based on their filings with the SEC.

Name and Address	Voting Authority		Dispositive Authority		Total Amount of Beneficial Ownership	Percent of Class
	Sole	Shared	Sole	Shared		
BlackRock Inc. 40 East 52nd Street New York, NY 10022	8,575,880	0	9,066,432	0	9,066,432	10.40%
The Vanguard Group 100 Vanguard Boulevard Malvern, PA 19355	77,764	0	4,697,953	70,064	4,768,017	5.49%

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COMPENSATION DISCUSSION AND ANALYSIS TABLE OF CONTENTS

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Executive Summary of Compensation Discussion & Analysis (CD&A)

2013 BUSINESS AND FINANCIAL PERFORMANCE OVERVIEW

- Total shareholder return of 82.9% on a one year basis and 20.8% on a three year basis.
- Generated a record of $2.0 billion revenues.
- Realized net income of $564.7 million, or $6.47 per diluted share, which benefited from a reduction in our estimated exposure to litigation expense of $90.3 million (after-tax) that had been accruing since 2008.
- Generated $1.3 billion of cash flow from operating activities.
- Invested $1.6 billion in exploration and development.
- Grew production 11% to a record 692.6 MMcfe/d.
- Increased proved reserves 11 percent to 2.5 Tcfe, 26 percent of which are oil.
- Added 727 Bcfe of proved reserves from extensions and discoveries replacing 288 percent of production.
- Delineated and expanded our Delaware Basin acreage position uncovering several long-term future drilling projects;
- Ended 2013 with debt-to-total capitalization of 19 percent.

2013 EXECUTIVE COMPENSATION

	2013 Salary	2013 Annual Cash Incentive Award	2013 Long-Term Incentive Grant Value	Total	% of Total Compensation at Risk
Thomas E. Jorden, CEO	$ 810,000	$ 1,620,000	$ 4,785,000	$ 7,215,000	89%
Paul Korus, CFO	$ 472,000	$ 750,000	$ 2,791,250	$ 4,013,250	88%
Joseph R. Albi	$ 540,000	$ 930,000	$ 3,190,000	$ 4,660,000	88%
Stephen P. Bell	$ 435,000	$ 750,000	$ 2,791,250	$ 3,976,250	89%
John A. Lambuth	$ 375,000	$ 645,000	$ 2,791,250	$ 3,811,250	90%

ELEMENTS AND MIX OF EXECUTIVE COMPENSATION

Cimarex s executive compensation program directly links a substantial portion of executive compensation to Cimarex s performance through annual and long-term incentives. The mix of the pay elements for the CEO and other NEOs for fiscal 2013 is shown below. This information is based on the Summary Compensation Table data and highlights the substantial portion of compensation that is at risk and will be realized only if performance criteria are met. Of the CEO s total disclosed 2013 compensation, 89% is at risk and is linked to Cimarex s future performance and 67% of his 2013 disclosed compensation is service-based and performance-based long-term equity incentive compensation. The average compensation mix for the other NEOs is 89% at risk compensation and 70% service-based and performance-based long-term equity incentive compensation.

Pay Elements	**Pay Element Rationale**
Base Salary	Retain and attract, when needed, talented executives
Annual Cash Incentive	Encourage short term operational/financial performance
Long-Term Equity Incentive	Encourage retention and above average stock price performance

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COMPENSATION DISCUSSION AND ANALYSIS

This Compensation Discussion and Analysis (CD&A) describes Cimarex s executive compensation program for 2013 and certain elements of the 2013 program. We use this program to retain and attract (when appropriate) the executives who lead our business. This CD&A explains how the Compensation and Governance Committee (the Committee) of the Board of Directors made 2013 compensation decisions for our executives, including the following Named Executive Officers (NEOs)

- Thomas E. Jorden, Chairman of the Board, Chief Executive Officer (CEO) and President
- Paul Korus, Senior Vice President, Chief Financial Officer (CFO)
- Joseph R. Albi, Chief Operating Officer (COO)
- Stephen P. Bell, Executive Vice President-Business Development
- John A. Lambuth, Vice President-Exploration

This CD&A is divided into two sections:

Section 1 discusses 2013 and early 2014 actions related to 2013 executive compensation.

Section 2 discusses our compensation framework, post-employment compensation, retirement benefits, perquisites and other compensation policies.

SECTION 1

Summary of 2013 and Early 2014 Compensation Decisions

TOPIC	ACTION	RATIONALE
Base Salary Review	Increased CEO s base salary from $672,000 to $810,000.	CEO s base salary was significantly below the 50th percentile of Cimarex s peers.

	Increased COO s base salary by 8%	A larger than 4% market increase was recommended due to the increased responsibilities.
	Increased remaining NEOs base salaries by 4%	Maintain alignment of the NEOs with the market.
Annual Short-Term Incentive plan	Authorized annual cash short-term awards to the CEO of 200% of year-end base salary (target of 100% of base salary) and to the other NEOs at a range from 152% to 179% of year-end base salary (target of 100% for all other NEOs).	Annual cash awards were based on the achievement of financial and strategic objectives. See *Key Compensation Actions for 2013* in *Section 1, Compensation Discussion and Analysis.*

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TOPIC	ACTION	RATIONALE
Long-Term Equity Incentives	Authorized long-term equity awards to NEOs (including the CEO) with an aggregate grant date fair value of $16,348,750. The number of shares that may be earned pursuant to these awards is determined by Cimarex s relative stock price performance. The awards vest three years from the date of grant and are subject to a continuous service requirement. A minimum of 50% of the shares granted and a maximum of 100% of the shares granted may be earned at the end of the three-year period.	The range for 2013 long-term equity awards recommended by the compensation consultant represented a total value between the 50th and 75th percentiles when compared to 2012 awards made by peer companies (which was the latest public information available). The Committee approved awards at approximately the 75th percentile when compared to peer company 2012 awards. The Committee considered Cimarex s total shareholder return for the past one and three years, NEO total direct compensation compared to peer companies, Cimarex s strong 2013 financial and operational performance, and the compensation consultant s recommended range.
Director Compensation	Recommended no increases during 2013 for director compensation.	Based on a market review of director compensation at peer group companies, the compensation consultant advised that Cimarex Director compensation was at the 53rd percentile and recommended no increases for 2013.

See *Key 2013 Compensation Actions* below for more detail.

Response to 2013 Say-on-Pay Vote and Shareholder Engagement

At the 2013 Annual Meeting of Shareholders, 91% of the votes cast were in favor of the advisory vote to approve executive compensation. The Committee considered this a favorable outcome and believed it conveyed our shareholders support of the Committee s compensation decisions in 2012 and early 2013 and shareholders overall satisfaction with Cimarex s executive compensation programs. Consistent with this support, the Committee retained the core design of our executive compensation programs for the remainder of 2013, as it believes the programs continue to retain, attract, when appropriate, and appropriately incent senior management.

As part of our regular shareholder engagement, we consider and discuss with shareholders a number of matters throughout the year, including executive compensation and governance. The Committee carefully considers any feedback and routinely reviews executive compensation practices and governance.

Key 2013 Compensation Actions

The following discusses the Committee s key 2013 compensation decisions, which are reflected in the 2013 Summary Compensation Table below. These decisions were made with the advice of the Committee s independent consultant, Longnecker & Associates. (See *Section 2 of Compensation Discussion and Analysis* for additional discussion regarding the role of the Committee s compensation consultant.)

CEO Compensation

- Effective June 1, 2013, Mr. Jorden s base salary was increased from $672,000 to $810,000. Prior to the increase, Mr. Jorden s base salary was well below the 50th percentile of CEOs of our peer companies, and the Committee, with the concurrence of its independent consultant, increased his base salary to near the 50th percentile.

- Mr. Jorden s 2013 annual cash incentive award was $1,620,000, or 200% of his year-end base salary.

- His annual long-term incentive equity award value at the date of grant (December 12, 2013) was $4,785,000.

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These adjustments were reviewed in detail by the Committee and its independent consultant. The Committee considered several factors, including input from its independent consultant and salary data from peer companies. In 2013, approximately 89% of Mr. Jorden s compensation as disclosed in the Summary Compensation Table was at risk.

Other NEO Compensation

The Committee also made compensation decisions for the other NEOs comprised of base salary adjustments, 2013 annual cash incentive awards made in February 2014 and long-term equity awards made in December 2013. These adjustments were based upon the recommendations of the CEO, evaluation by the Committee, the advice of the Committee s independent consultant, salary data from peer and comparator groups, internal pay relationships based on relative duties and responsibilities, the executive s impact on Cimarex s results, and for retention purposes. Based upon these considerations, the Committee made the following 2013 NEO compensation decisions:

	2013 Salary	2013 Annual Cash Incentive Award	2013 Long-Term Incentive Equity Grant Date Fair Value	Total	% of Total Compensation that is At Risk
Paul Korus, CFO	$ 472,000	$ 750,000	$ 2,791,250	$ 4,013,250	88%
Joseph R. Albi	$ 540,000	$ 930,000	$ 3,190,000	$ 4,660,000	88%
Stephen P. Bell	$ 435,000	$ 750,000	$ 2,791,250	$ 3,976,250	89%
John A. Lambuth	$ 375,000	$ 645,000	$ 2,791,250	$ 3,811,250	90%

Base Salary Determination

We provide competitive base salaries to retain and attract, when appropriate, talented executives and to provide a fixed base of cash compensation. We compare each NEO s base salary with the base salary paid for a similar executive position by companies in our Compensation Peer Group. See *Competitive Positioning* later in this CD&A for a list of the companies in the Compensation Peer Group. The Committee then may adjust base salaries based on a number of factors, including job responsibilities, management experience, individual contributions, number of years in position and current salary.

In May 2013, the Committee s independent compensation consultant reviewed the NEOs base salaries compared to market and recommended an annual increase of 3.5% to 4% to maintain market alignment. The consultant also advised that the CEO s base salary was below market and recommended an increase in the CEO s base salary to at least the 50th percentile of the Compensation Peer Group. The Committee also recognized that the executive officers base salaries were not increased for the period June 1, 2012 through May 31, 2013 and that the Chief Operating Officer was particularly affected, as he had assumed significant additional responsibilities at the time he was promoted to Chief Operating Officer in September 2011 but had not received a base salary increase in consideration of those increased responsibilities since September 2011. Therefore, the Committee considered (i) the recommendations of the consultant, (ii) that the base salaries of the NEOs, including the CEO, were not increased for the period June 1, 2012 through May 31, 2013 and (iii) that the Chief Operating Officer had not received a base salary increase reflecting his increased responsibilities associated with his September 2011 promotion. The Committee recommended, and the Board approved, the following base salary increases effective June 1, 2013:

Name	Title	5/31/13 Base Salary	After 6/1/13 Base Salary	Percent Increase

Thomas E. Jorden	CEO and President	$ 672,000	$ 810,000	20.5%
Joseph R. Albi	Chief Operating Officer	$ 500,000	$ 540,000	8.0%
Stephen P. Bell	Executive Vice President-Business Development	$ 420,000	$ 435,000	3.6%
Paul Korus	Senior Vice President, CFO	$ 452,000	$ 472,000	4.4%
John A. Lambuth	Vice President-Exploration	$ 360,000	$ 375,000	4.2%

Annual Cash Incentive Awards

In February 2014, the Committee met to deliberate and determine NEO (including the CEO) annual cash incentive awards for 2013 services. The individual target for the CEO and each other NEO is 100% of his base salary. There is no minimum award and an individual s maximum award is 200% of his base salary.

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In December 2012, the Committee adopted 2013 strategic and tactical goals and objectives to be measured in 2014. The following represents the level of achievement of the 2013 strategic and tactical goals and objectives:

2013 Strategic and Tactical Goals and Objectives	Achievement
Achieve threshold or greater economic return on invested capital.	***Very Good.*** Exceeded threshold for after tax return on invested capital based on internal measurements which consider only discounted future cash flows from proved developed reserves.
Increase production compared to previous year (absolute and on a debt-adjusted basis).	***Very Good.*** Increased absolute production by 11% and debt-adjusted production by 9%.
Increase reserves compared to previous year (absolute and on a debt-adjusted basis.	***Very Good.*** Increased absolute reserves by 11% and debt-adjusted reserves by 9%.
Deliver at least one new project that contains significant future investment potential.	***Fair.*** Tested one exploration concept that will continue to be tested and continue to review additional exploration concepts.
Improve management of base property production.	***Very Good.*** Production growth in 2013 enhanced by promotions of Vice President of Production and Director of Production and their management of production activities as well as the greater role of Cimarex s Exploration Regions in managing the production contributions from their drilling programs.
Continue improvement of drilling and completion performance and decrease in related costs.	***Excellent.*** Decreased drilling times and costs; increases in completion costs more than offset by production gains.
Analyze midstream operations in order to decide whether to retain and develop or to divest.	***Very Good.*** Hired plant manager and other experienced midstream employees and brought Triple Crown plant in Culberson County, Texas online; established multiple markets for production in Permian; evaluating monetization of Mid-Continent plants.
Develop and implement corporate financial modeling tool.	***Excellent.*** Implemented new software that provides ability to generate cash flow forecasts that incorporate base production and production increases from planned drilling programs.
Develop and implement HR staffing and succession plan for key levels of management below executive team.	***Fair.*** Continue to make progress in the face of shortage of skilled manpower and leadership. The shortage affects Cimarex and its competitors.
Improve operational safety and environmental management.	***Excellent.*** Hired Director of Health, Environment and Safety; continue to improve environmental compliance and agency relationships; continue to stress culture of safe and environmentally responsible operations.

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Based principally on the achievement of the 2013 strategic and tactical goals and objectives, the CEO recommended cash incentive awards for the other NEOs in the range of 159% to 172% of their year-end 2013 salaries. The Committee s independent consultant concurred that the CEO s recommendations were reasonable. The consultant also had recommended a pool for cash incentive awards for all NEOs in the range of $3.7 million to $5.2 million based on the consultant s review of the company s achievement of the 2013 strategic and tactical goals. The Committee, after considering the achievement of the 2013 financial and operational objectives and in consultation with its independent consultant, accepted the CEO s recommendations, and the Board approved the Committee s recommendations.

The Committee, with its independent consultant, and without management present, deliberated on the CEO s annual cash incentive award. Based on its analysis of the CEO s 2013 performance described above and the CEO s leadership of the company and management of senior executives and other employees to achieve this performance, the Committee recommended and the Board approved a cash incentive award to the CEO of 200% of his base salary. The Committee s independent consultant concurred with this recommendation and the total cash incentive awards to all NEOs of $4.7 million was within the recommendation of the compensation consultant of a reasonable range of $3.7 million to $5.2 million. Following are the CEO and other NEO 2013 annual cash incentive awards:

Name		Cash Incentive Award	% of Year-End Base Salary
Thomas E. Jorden, CEO	$	1,620,000	200%
Paul Korus, CFO	$	750,000	159%
Joseph R. Albi	$	930,000	172%
Stephen P. Bell	$	750,000	172%
John A. Lambuth	$	645,000	172%

Long-Term Equity Incentive Award Program

Our long-term equity incentive award program balances the short-term annual cash incentive program by focusing executive efforts on the activities and short-term results that lead to long-term shareholder value. Each year the Committee grants equity awards of restricted stock to NEOs.

The number of shares that may be earned is determined by the relative stock price performance of Cimarex when compared to the stock price performance of companies in the S&P 400 and 500 Oil and Gas Exploration Indices (Stock Performance Peer Group). See *Competitive Positioning* in this CD&A for a list of the companies in the 2013 Stock Performance Peer Group. The awards vest three years from the date of grant and are subject to a continuous service requirement. A minimum of 50% of the shares granted and a maximum of 100% of the shares granted may be earned at the end of the three-year period.

Dividends equivalent to those paid on Cimarex common stock are paid on 50% of the shares awarded, and dividends applicable to the remainder of the shares awarded are accrued and only paid on the shares earned following calculation of Cimarex s relative stock price performance compared to companies in the Stock Performance Peer Group at the end of the performance period. All of the shares subject to the award have the same voting rights as outstanding shares of Cimarex common stock.

For restricted stock awards made in December 2013, the total number of shares earned is determined by calculating the percentage difference between the average per share closing price for shares of Cimarex and each company in the Stock Performance Peer Group for the 30 trading days preceding the date of grant and the 30 trading days preceding the third anniversary of the grant. The Committee ranks Cimarex and calculates its relative performance percentile. Companies that are not in the Stock Performance Peer Group at both the beginning and the end of the

performance period are not included in the calculation. The following table illustrates shares that would be earned at various relative stock performance price percentiles (assuming 24 companies in the Peer Group).

Cimarex s Rank Among Peer Companies	Relative Stock Price Performance Percentile	Percent of Shares Earned
1-6	75-100%	100%
7-12	52-71%	77-99%
13-18	29-48%	51-73%
19-24	0-24%	50%

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On December 12, 2013, the Committee granted long-term equity awards to the NEOs with a total grant date fair value of $16,348,750 based on competitive market data for companies in Cimarex s Compensation Peer Group. See *Competitive Positioning* in this CD&A for a list of the companies in the Compensation Peer Group. The Committee s compensation consultant recommended awards with a value between the 50th and 75th percentiles when compared to companies in the Compensation Peer Group. (Comparative data is obtained from public filings disclosing 2012 NEO compensation of companies in the Compensation Peer Group.) The Committee approved awards at approximately the 75th percentile based on Cimarex s total shareholder return for the past one and three years, the total direct compensation of our NEOs compared to our peer companies, Cimarex s 2013 financial and operational performance, and the compensation consultant s recommended range.

The Committee granted a total of 205,000 restricted shares to the NEOs (including the CEO). The number of shares granted to each NEO was based on the relative individual roles and responsibilities. Of the total number of shares granted to the NEOs (including the CEO), the Committee awarded 29.3% of the shares to Mr. Jorden, 19.5% of the total shares to Mr. Albi and the remaining 51.2% of the total shares were divided equally among Messrs. Bell, Korus and Lambuth. The following table reflects the awards made by the Committee:

Name	No. of Shares Subject to Award	Grant Date Value of Long-Term Equity Incentive Award(1)
Thomas E. Jorden, CEO	60,000	$ 4,785,000
Paul Korus, CFO	35,000	$ 2,791,250
Joseph R. Albi	40,000	$ 3,190,000
Stephen P. Bell	35,000	$ 2,791,250
John Lambuth	35,000	$ 2,791,250

(1) Represents an estimate of the fair value of the shares as of the grant date utilizing a Monte Carlo valuation technique as permitted by the guidance provided by FASB ASC Topic 718. The estimated fair value is the aggregate compensation cost to be recognized over the service period based on the results of the Monte Carlo analysis.

2013 Vesting of NEO Equity Awards

On January 4, 2013, the performance period applicable to the January 4, 2010 NEO equity awards ended. Cimarex s relative stock price performance percentile was 42% at the end of the performance period, resulting in the vesting of 67% of the shares subject to the January 4, 2010 award. The following table reflects the shares originally granted to each NEO and the number of shares that vested at the end of the three-year performance period:

Name	No. of Shares Granted 1/4/2010	No. of Shares Vested 1/4/2013
Thomas E. Jorden, CEO	50,000	33,500
Paul Korus, CFO	50,000	33,500
Joseph R. Albi	50,000	33,500
Stephen P. Bell	50,000	33,500

The vesting of these awards and the value at vesting is also reported in *2013 Option Exercises and Restricted Stock Vesting* table in this Proxy Statement. Mr. Lambuth was not an executive officer at the time of the January 4, 2010 awards. Mr. Lambuth s service-based award that vested in 2013 is included in the *2013 Option Exercises and Restricted Stock Vesting* table.

Elimination of Tax Gross Up Payments

In March 2013, the Board amended the Cimarex Energy Co. Change in Control Severance Plan to eliminate any participant s right (including the right of any NEO) to a tax gross-up payment.

Cimarex s Change in Control Severance Plan is the only plan that provided for a tax gross up payment to a participant following a change in control if any payments received by the participant as a result of the change in control become subject to the excise tax imposed by Section 4999 of the Internal Revenue Code. See *Potential Payments upon Change in Control or Termination* for a more detailed description of this Plan.

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Alignment of CEO Compensation to Total Shareholder Return

Cimarex CEO Total Compensation Compared to Cimarex Total Shareholder Return

The following graph illustrates our CEO compensation compared to our TSR for the years 2009 through 2013. Indexed TSR represents the cumulative total return of Cimarex stock for a five-year period based on a $100 investment at the start of the first year and reinvestment of all dividends. The data for 2009 and 2010 represents reported compensation for only F. H. Merelli, our former CEO. The data for 2011 includes weighted compensation, including compensation for F. H. Merelli, who served as CEO for nine months in 2011, and compensation for Thomas Jorden, who served as CEO for three months in 2011. Compensation for 2012 and 2013 represents only compensation for Thomas Jorden, Cimarex s current CEO. The table shows the value of the investment at the end of each year.

Relative CEO Total Compensation Compared to Relative Total Shareholder Return

The following graph depicts alignment of relative CEO compensation compared to relative Total Shareholder Return for the years ended December 31, 2010 through December 31, 2012. The information is only provided through 2012 because 2013 CEO peer company compensation information is not publicly available at this time. The companies used for the relative comparison are the companies in our Compensation Peer Group. We have also included, as a point of reference, Cimarex s CEO compensation for the years ended December 31, 2011 through December 31, 2013.

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Multiple of Median CEO Compensation

The graph below reflects that Cimarex s 2012 CEO total direct compensation represents 64% of the median CEO total direct compensation of companies in our Compensation Peer Group. The information provided is for 2012 peer group CEO total direct compensation because 2013 CEO peer company compensation information is not publicly available at this time. We have also included, as a point of reference, Cimarex s 2013 CEO total direct compensation.

Early 2014 Compensation Decisions

2014 Annual Cash Incentive Award Goals

In December 2013, the Committee approved the following strategic goals and objectives that will apply to 2014 annual cash incentive awards that will be measured and paid in 2015:

2014 strategic goals:

- Achieve good return on invested capital.
- Increase production compared to previous year on a debt-adjusted basis.

- Increase reserves compared to previous year on a debt-adjusted basis.
- Deliver at least one new project that contains significant future investment potential.

2014 tactical goals:

- Improve management of base property production.
- Continued improvement of drilling and completion performance and decrease in related costs.
- Continued focus on staffing and succession planning at all levels.
- Develop internal five-year plan and capital model.
- Emphasize and improve health, safety and environmental management.
- Prepare for Delaware Basin Wolfcamp development decision.

The strategic and tactical measures and objectives have been clearly communicated to the NEOs. At year end, the CEO will deliver a report of results to the Committee with respect to each goal and provide the CEO s recommendation and the basis for the CEO s recommendations for individual awards. The Committee and its independent compensation consultant will review management s recommendations and accept or modify those recommendations. The non-management members of the Board will consider the recommendations of the Committee. Each NEO, including the CEO, has a target award equal to 100% of base salary and a maximum award of 200% of base salary; there is no minimum award.

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SECTION 2

Our Compensation Framework

Objectives

Our principal business objective is to profitably grow our proved oil and gas reserves and production for the long-term benefit of shareholders. The primary strategy we use to achieve this objective is to reinvest our cash flow from operations at a competitive rate of return. Our executive compensation program is designed to retain and attract, when appropriate, the experienced professionals necessary to carry out this strategy.

Design

We design our executive compensation program to:

- **Align performance incentives with the long-term interests of our shareholders.**

We align the long-term interests of our executives with the long-term interests of our shareholders by paying a substantial portion of each executive s total direct compensation in the form of performance-based equity awards. The actual awards delivered are dependent upon relative TSR so that the more our shareholders benefit through shareholder returns compared to our Stock Performance Peer Group, the more our executives benefit through increased vesting of performance-based equity and the relative increase in stock price compared to our Stock Performance Peer Group. Also, stock ownership guidelines encourage executives to have a meaningful ownership stake.

- **Provide competitive total direct compensation opportunities that retain and attract, when needed, executive talent.**

We provide compensation opportunities to our executives at levels that are competitive with equivalent positions at companies with which we may compete for talent. In general, when we review base salary, long-term equity awards and total direct compensation, we reference the 50th and 75th percentiles. Actual compensation earned by an executive may be outside this range based on company and individual performance and industry competition for talented executives.

- **Link compensation earned to achievement of short-term and long-term financial and operational objectives.**

We provide an annual incentive cash award opportunity that is designed to reward executive efforts for achievement of company financial and operational objectives. Our long-term equity incentive awards are designed to encourage above average stock price performance and are structured to encourage retention of executives.

Principal Elements of Executive Compensation

We principally use three elements of executive compensation to carry out the design of our executive compensation program, collectively referred to as Total Direct Compensation :

Ø	Base salary	Retain executive team and, when appropriate, attract other executives.
Ø	Annual cash incentive award	Reward executives for short-term financial and operational results.
Ø	Annual long-term equity award	Focus executive efforts on activities and short-term results that lead to long-term shareholder value. Use time-vested restricted stock for retention and performance measures based on relative TSR to align executives interests with the interests of shareholders.

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Competitive Positioning

In support of our compensation objectives, we reference the 50th and 75th percentiles of a peer group of companies to determine an appropriate total value and mix of pay for executives. We look at individual NEO and total NEO Total Direct Compensation compared to individual NEO and total NEO Total Direct Compensation of companies in our Compensation Peer Group. Because not all of our NEO positions are directly comparable to NEO positions of companies in our Compensation Peer Group, we believe that reviewing aggregate Total Direct Compensation of all NEOs provides an appropriate reference for comparative purposes. The Compensation Peer Group is comprised of companies in the oil and gas industry with similar market capitalization and revenue. The Committee annually reviews companies in this peer group. The 50th and 75th percentiles are reference points only; we do not automatically compensate each executive at these levels. Several variables, including individual and division performance, time in position, annual company performance and one- and three-year relative stock price performance influence the actual executive compensation decisions.

In May 2013, the Committee approved Cimarex s Compensation Peer Group to be used for 2013 compensation decisions. The companies included in the Peer Group at the time of selection are companies in our industry of similar size and scope of operations and similar market capitalization and revenue. At the time of selection, the 2012 year-end market capitalization of these companies ranged from $3.7 billion to $26.98 billion, and the annual revenue ranged from $810 million to $4.2 billion. For the comparable periods, Cimarex s market capitalization was $9 billion and revenue was $1.6 billion.

2013 Compensation Peer Group

Peer Company	Peer Company
Cabot Oil & Gas Corporation	QEP Resources, Inc.
Concho Resources, Inc.	Range Resources Corp.
Denbury Resources Inc.	SM Energy Company
Energen Corp.	Southwestern Energy Co.
Newfield Exploration Co.	Ultra Petroleum Corporation
Noble Energy Inc.	Whiting Petroleum Corporation
Pioneer Natural Resources Co.	WPX Energy, Inc.

Under our long-term equity incentive award program, we grant performance-based awards of restricted stock. The performance measure used to determine the number of shares to be delivered upon vesting is Cimarex s relative total shareholder return, or TSR, when compared to companies in the S&P 400 and 500 Oil and Gas Exploration Indices (the Stock Performance Peer Group).

2013 Stock Performance Peer Group

S&P 400 Oil & Gas Exploration Index	S&P 500 Oil & Gas Exploration Index	
Bill Barrett Corporation	Anadarko Petroleum Corp.	EQT Corp.
Comstock Resources Inc.	Apache Corp.	Newfield Exploration Co.
Forest Oil Corp.	Cabot Oil & Gas Corp.	Noble Energy Inc.
Plains Exploration & Production co.	Chesapeake Energy Corp.	Pioneer Natural Resources Co.
Quicksilver Resources Corp.	Denbury Resources Inc.	QEP Resources, Inc.

SM Energy Company	Devon Energy Corp.	Range Resources Corp.
	EOG Resources Inc.	Southwestern Energy Co.

Role of Compensation Consultant and Management in Compensation Decisions

Compensation Consultant

The Committee has engaged the firm of Longnecker & Associates (Longnecker) as its independent compensation consultant to fulfill the following responsibilities:

- Advise the Committee on management proposals, as requested.
- Undertake special projects at the request of the Committee.
- Participate in Committee meetings.
- Make recommendations concerning the Compensation Peer Group.

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- Review the selected peer group and survey data for competitive comparisons.
- Provide market data and recommendations on NEO compensation.

The Committee has considered the six independence factors adopted by the NYSE and has determined that its consultant, Longnecker, is independent within the meaning of the NYSE listing standards.

In 2013, as part of its ongoing services to the Committee, one or more representatives of Longnecker attended or participated by teleconference at five of the meetings of the Committee. Longnecker provided the following services in 2013:

- Reviewed and provided input on the CD&A in the 2013 Proxy Statement.
- Attended February 25, 2013 Committee meeting and consulted with the Committee on annual cash incentive awards.
- Reviewed and made executive base salary recommendations.
- Made recommendations concerning the Compensation Peer Group.
- Conducted a market analysis of Board compensation.
- Provided an executive compensation analysis and recommended range for long-term equity grants.
- Recommended compensation in connection with an executive hiring.

The total amount of fees paid to Longnecker for 2013 services to the Committee was $83,899. In addition, the Committee reimburses Longnecker for reasonable travel and business expenses.

Management

Our CEO and President is the principal management resource for compensation recommendations to the Committee with respect to the other NEOs. The CEO (i) provides an annual assessment of Cimarex s overall financial and operational performance, and (ii) subjectively evaluates individual NEO performance and recommends individual base salary adjustments, annual cash incentive awards and long-term equity awards. His subjective evaluations generally include factors such as scope of responsibility, contribution to company performance, technical competence, managerial skills and advancement potential. The Committee considers the CEO s recommendations in making Committee decisions regarding executive compensation. The Committee exercises its discretion to accept, reject or modify these compensation recommendations.

Our Vice President of Human Resources acts as an informational resource to Longnecker and the Committee and compiles survey and other compensation data for their review. The Committee, in consultation with Longnecker, reviews this information when making executive compensation

and program design decisions.

Other Compensation Arrangements

Post-Employment and Employment Arrangements

All employees, including the NEOs, are covered by the Cimarex Change in Control Severance Plan. The Plan provides for a double trigger so that payments are made only if (a) there is a change in control (as defined in the Plan) and (b) an employee is terminated for any reason other than cause (as defined in the Plan) within two years following a change in control. In that event, the employee is entitled to (i) cash severance payments of two times annual salary and average cash incentive award, (ii) a pro-rata portion of annual cash incentive bonus for the current year, and (iii) continued medical, dental, disability and life insurance benefits for two years. See *Potential Payments upon Change in Control or Termination* for a more detailed description of these benefits. In addition, the 2011 Equity Incentive Plan, the proposed 2014 Equity Incentive Plan, and the terms of employee equity award agreements provide for acceleration of vesting of outstanding equity awards upon the occurrence of a change in control.

Cimarex assumed the change in control provisions from the now-expired employment agreements between each of Messrs. Albi, Bell, Jorden and Korus and a predecessor company. The assumed portion of each agreement provides that if the executive is terminated without cause following a change in control event (as defined in the agreement), the executive is entitled to a lump-sum payment equal to two times the executive s base salary at the time of the change in control. Benefits payable under these agreements are forfeited if the executive receives benefits under any other change in control plan, including the Cimarex Energy Co. Change in Control Severance Plan. As a practical matter, the change in control benefits assumed under the employment agreements only benefit these executives if the Change in Control Severance Plan described above has been terminated. The Change in Control Severance Plan provides for greater benefits payable upon the occurrence of a change in control event than those payable under the assumed agreements.

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In 2010, prior to becoming an NEO, John Lambuth, Vice President-Exploration, entered into a retention agreement with Cimarex. The agreement requires Cimarex to make a payment of $600,000, less required withholdings, to Mr. Lambuth if he remains employed through June 1, 2014 or upon an earlier change in control (as defined in the Change in Control Severance Plan) or termination of Mr. Lambuth by Cimarex other than for cause.

Retirement Benefits

Employees, including the NEOs, are eligible to participate in the Cimarex 401(k) defined contribution retirement plan. Cimarex matches dollar-for-dollar employee contributions to the plan up to 7% of the employee s cash compensation, subject to limits imposed by the Internal Revenue Code. The Board is authorized to make profit-sharing contributions under the Plan and, in February 2014, the Board authorized a profit-sharing contribution of 4% of the gross cash compensation of eligible participants under the Plan.

In addition, eligible participants, including the NEOs, may participate in the Supplemental Savings Plan, which is a non-qualified deferred compensation plan that permits participants to make contributions (and to receive matching contributions) in excess of the Internal Revenue Code limitations for 401(k) plans. See *Compensation Tables, 2013 Nonqualified Deferred Compensation* for information about contributions to the Supplemental Savings Plan. The Committee administers this plan and designates who may participate. Benefits are paid upon the later to occur of termination of employment or the time elected by the participant. In the event of a change in control, each participant receives a lump sum cash payment of the amount allocated to his or her account.

Perquisites

We provide a limited number of perquisites (personal benefits) to our NEOs, including financial and estate planning and a medical reimbursement program. Our corporate aircraft is generally not available for personal use by any employee. With the authorization of our CEO, however, the corporate aircraft may be used by an employee or a member of his/her family for medical purposes. The incremental cost for non-business use of our corporate aircraft, if any, is disclosed in the *Summary Compensation Table*. We use the Standard Industry Fare Level tables published by the Internal Revenue Service to determine the amount of compensation income that is imputed to the employee for tax purposes for personal use of corporate aircraft. There was no non-business use of our corporate aircraft during 2013.

Other Compensation Policies

Total Pay Considerations

The Committee considers total direct compensation at the time it makes a decision on any element of executive compensation. The Committee also reviews the relationship of the CEO s total compensation to the total compensation of each of the other NEOs.

Stock Ownership and Holding Requirements

Our Corporate Governance Guidelines require that each independent director own Cimarex stock in an amount equal to three times his annual cash retainer. In addition, the CEO is expected to own Cimarex shares in an amount equal to five times his annual base salary, and each executive officer who reports to the CEO is expected to own stock in an amount equal to three times his annual base salary. A newly elected director or a newly appointed executive officer has three years from the date of his or her initial election or appointment to comply with the Guidelines. Restricted stock, restricted stock units, deferred compensation units and performance awards are counted in calculating ownership. Shares subject to options are not counted. Each of the independent directors, the CEO and the other NEOs comply with these guidelines.

Clawback Policy

We have adopted a clawback policy providing that, in the event of an accounting restatement due to material noncompliance with financial reporting requirements under the U.S. federal securities laws, the Committee has the right to use reasonable efforts to recover from any of our current or former executive officers who received incentive-based compensation related to the restatement and received during the three-year period preceding any such accounting restatement. This policy applies to incentive-based compensation granted on or after June 1, 2012. This clawback policy will be interpreted in the best judgment of the Committee in a manner consistent with any applicable rules or regulations adopted by the SEC or the NYSE as contemplated by the Dodd-Frank Act.

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Non-Hedging and Non-Pledging Policies

Our insider trading policy prohibits directors, officers and designated employees from engaging in hedging or monetization transactions and other employees are strongly discouraged from engaging in such transactions. Any other employee wishing to enter into such an arrangement must first submit the proposed transaction for approval by the compliance officer designated in the policy. The policy also prohibits directors, officers and employees from holding Cimarex stock in a margin account or pledging Cimarex stock as collateral for a loan.

Tax Law Considerations

The Committee considers the impact of applicable tax laws with respect to executive compensation. Section 162(m) of the Internal Revenue Code of 1986, as amended (Section 162(m)), limits the amount of compensation that Cimarex may deduct on its federal income tax return for compensation paid to certain executive officers to no more than $1 million per year. There are exceptions to the $1 million limitation for performance-based compensation meeting certain requirements. The performance-based portion of our restricted stock awards are the only element of executive compensation designed to qualify for the performance-based exception to the $1 million deduction limit, provided additional requirements are met. The Committee attempts to preserve the deductibility of compensation paid to executive officers but does not limit executive compensation to amounts deductible under Section 162(m).

COMPENSATION AND GOVERNANCE COMMITTEE REPORT

The Compensation and Governance Committee has reviewed and discussed with management the preceding Compensation Discussion and Analysis section of Cimarex s 2014 Proxy Statement. Based on our review and discussions, we have recommended to the Board of Directors that the Compensation Discussion and Analysis be included in Cimarex s 2014 Proxy Statement.

THE COMPENSATION AND GOVERNANCE COMMITTEE

L. Paul Teague, Chairman
Jerry Box
Hans Helmerich
David A. Hentschel

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COMPENSATION TABLES

SUMMARY COMPENSATION TABLE

The following table describes 2011-2013 compensation of our CEO, CFO and the three other most highly compensated executive officers.

Name and Principal Position	Year	Salary	Bonus	Stock Awards(1)	Option Awards	Non-Equity Incentive Plan Comp.(2)	All Other Comp.(3)	Total
Thomas E. Jorden	2013	$ 751,616	$	$ 4,785,000	$	$ 1,620,000	$ 58,975	$ 7,215,591
Chief Executive	2012	$ 672,000	$	$ 2,549,445	$	$ 800,000	$ 44,740	$ 4,066,185
Officer and President (CEO)	2011	$ 538,621	$	$ 3,494,478	$ 479,260	$ 750,000	$ 43,590	$ 5,305,949
Joseph R. Albi	2013	$ 523,077	$	$ 3,190,000	$	$ 930,000	$ 48,440	$ 4,691,517
Chief Operating	2012	$ 500,000	$	$ 1,912,127	$	$ 550,000	$ 83,692	$ 3,045,819
Officer	2011	$ 465,772	$	$ 3,494,478	$ 479,260	$ 400,000	$ 70,276	$ 4,909,786
John A. Lambuth	2013	$ 368,654	$	$ 2,791,250	$	$ 645,000	$ 48,440	$ 3,853,344
Vice President-Exploration	2012	$ 324,615	$	$ 1,367,000	$	$ 325,000	$ 42,637	$ 2,059,252

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(1) Represents the grant date fair value of the awards, which is an estimate of aggregate compensation cost to be recognized over the service period based on the probable outcome of the performance conditions and is an estimate of aggregate compensation cost to be recognized over the service period determined as of the grant date under FASB ASC Topic 718. The awards are valued as market-based awards using the Monte Carlo simulation method assuming a target number of shares that would be issued because this is deemed to be the probable payout percentage at the time of grant consistent with the estimate of aggregate compensation cost to be recognized over the service period. Actual payouts with respect to the awards can range from 50 percent to 100 percent of the award based on the relative ranking of the Company s TSR in comparison to the peer group over the three-year performance period. If the Company s performance results in 100% of the award being paid, the grant date fair value of the maximum number of shares for each of the NEOs pursuant to the awards granted in 2013 based on the closing price of the company s common stock on the December 12, 2013 date of grant would have been as follows: Mr. Jorden $5,792,400; Mr. Albi $3,861,600; and each of Messrs. Korus, Bell and Lambuth $3,378,900.

(2) Amount reported for the year earned.

(3) The following describes the components of other items of compensation, including any perquisite in excess of $10,000:

Thomas E. Jorden, CEO					
2013	$	$ 45,200	$ 3,240	$	58,975(a)
2012	$	$ 41,500	$ 3,240	$	44,740
2011	$	$ 40,350	$ 3,240	$	43,590
Joseph R. Albi					
2013	$	$ 45,200	$ 3,240	$	48,440
2012	$ 3,036	$ 41,500	$ 3,240	$	83,692
2011	$	$ 40,350	$ 3,094	$	70,276
John A. Lambuth(b)					
2013	$	$ 45,200	$ 3,240	$	48,440
2012	$	$ 39,743	$ 2,894	$	42,637

(a) Mr. Jorden s total other compensation includes $9,926 for medical reimbursements and $609 for reserved parking.

(b) This is the second year that Mr. Lambuth is included as an NEO in the Summary Compensation Table. Therefore, information is reported only for the 2013 and 2012 fiscal years.

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2013 GRANTS OF PLAN-BASED AWARDS

2013 Non-Equity Incentive Plan

The following table describes the target and maximum amounts of annual cash incentive awards for the NEOs and the actual award paid in March 2014 for 2013 services. The non-equity incentive plan provides for no minimum (threshold) award. The amounts listed in the *Target* column represent 100% of the year-end monthly base salary annualized. The amounts listed in the *Maximum* column represent 200% of the year-end monthly base salary annualized. See the description of our annual cash incentive award plan in *Section 1, Compensation Discussion and Analysis.*

	Estimated Future Payouts Under Non-Equity Incentive Plan			
Name	Threshold	Target	Maximum	Actual Award Paid in March 2014
Thomas E. Jorden, CEO	$ 0	$ 810,000	$ 1,620,000	$ 1,620,000
Joseph R. Albi	$ 0	$ 500,000	$ 1,000,000	$ 930,000
John A. Lambuth	$ 0	$ 375,000	$ 750,000	$ 645,000

2013 Equity Incentive Plan Awards

The following table provides information regarding the awards of restricted stock and options made to the CEO, CFO and other NEOs in 2013. No option awards were made in 2013. See *Section 1, Compensation Discussion and Analysis, Long Term Equity Incentive Award Program,* for more information about these awards.

				Estimated Future Payouts Under Equity Incentive Plan Awards			
Name	Type of Award(1)	Award Grant Date	Comp. Comm. Approval Date	Threshold(2)	Target(3)	Maximum	Grant Date Fair Value of Stock & Option Awards(4)

Thomas E. Jorden, CEO	RSA	12/12/13	12/12/13	30,000	60,000	$	4,785,000
Paul Korus CFO	RSA	12/12/13	12/12/13	17,500	35,000	$	2,791,250
Joseph Albi	RSA	12/12/13	12/12/13	20,000	40,000	$	3,190,000
Stephen Bell	RSA	12/12/13	12/12/13	17,500	35,000	$	2,791,250
John Lambuth	RSA	12/12/13	12/12/13	17,500	35,000	$	2,791,250

(1) RSA = Restricted stock (service-based and performance-based shares)

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(2) One-half of the total potential award will vest on completion of continuous service on the third anniversary of the grant date of the award.

(3) Terms of the awards do not specify a targeted number of shares. The number of shares that are earned depends on Cimarex s stock price performance relative to peers and is not computed until the third anniversary of the grant date of the award. See *Long-Term Equity Incentive Award Program* for the method of computing the number of shares that vest. Cash dividends will be paid on the threshold number of shares during the vesting period and accrued during the vesting period on the remaining number of shares that are subject to measurement of relative TSR upon satisfaction of the continuous service requirement.

(4) Represents an estimate of the fair value of the shares as of the grant date utilizing a Monte Carlo valuation technique as permitted by the guidance provided by FASB ASC Topic 718. The estimated fair value is the aggregate compensation cost to be recognized over the service period based on the results of the Monte Carlo analysis. The awards are valued as market-based awards assuming a target number of shares would be issued because this is deemed to be the probable payout percentage at the time of grant consistent with the estimate of aggregate compensation cost to be recognized over the service period.

Outstanding Equity Awards at December 31, 2013

	OPTION AWARDS				STOCK AWARDS	
	Number of Securities Underlying Unexercised Options				Equity Incentive Plan Awards That Have Not Vested	
Name	Exercisable	Unexercisable(1)	Option Exercise Price	Option Expiration Date	No. of Shares	Market Value of Unearned Shares(2)
Thomas E. Jorden, CEO	0	25,000	$ 55.96	9/30/2018	167,555(3)	$ 17,578,195
Paul Korus, CFO	0	15,000	$ 55.96	9/30/2018	120,171(4)	$ 12,607,140
Joseph R. Albi	0	25,000	$ 55.96	9/30/2018	132,633(5)	$ 13,914,528
Stephen P. Bell	0	25,000	$ 55.96	9/30/2018	120,171(4)	$ 12,607,140
John A. Lambuth	0	0			73,500(6)	$ 7,710,885

(1) Each of the option awards will vest in full on September 30, 2014.

(2) The amount in this column reflects the closing market price of the stock as of December 31, 2013 ($104.91) multiplied by the number of shares reported in the previous column.

(3) 34,940 shares of a 47,863 share award vested on January 3, 2014, between a minimum of 29,796 and a maximum of 59,592 shares could vest on May 18, 2015 and between a minimum of 30,000 and a maximum of 60,000 shares could vest on December 12, 2016.

(4) 34,940 shares of a 47,863 share award vested on January 3, 2014, between a minimum of 18,654 and a maximum of 37,308 shares could vest on May 18, 2015 and between a minimum of 17,500 and a maximum of 35,000 shares could vest on December 12, 2016.

(5) 34,940 shares of a 47,863 share award vested on January 3, 2014, between a minimum of 22,235 and a maximum of 44,470 shares could vest on May 18, 2015 and between a minimum of 20,000 and a maximum of 40,000 shares could vest on December 12, 2016.

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(6) 2,500 shares will vest on June 23, 2014, 4,000 shares will vest on July 1, 2015, 4,000 shares will vest on July 13, 2016, 4,000 shares will vest on July 13, 2017, a minimum of 12,000 and a maximum of 24,000 shares could vest on September 13, 2015, and a minimum of 17,500 and a maximum of 35,000 shares could vest on December 12, 2016.

2013 Option Exercises and Restricted Stock Vested

	2013 OPTION EXERCISES		2013 STOCK VESTING	
Name	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise ($)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting ($)
Thomas E. Jorden		$	33,500	$ 2,011,005
Paul Korus		$	33,500	$ 2,011,005
Joseph R. Albi		$	33,500	$ 2,011,005
Stephen P. Bell		$	33,500	$ 2,011,005
John A. Lambuth		$	5,000	$ 375,550

2013 Nonqualified Deferred Compensation

The following table provides information on the Supplemental Savings Plan (the Plan) contributions and earnings for our NEOs in each of the last three fiscal years. Under the terms of the Plan, a participant may make an elective contribution to the Plan of an amount that exceeds the maximum amount permitted to be contributed to his account in the Cimarex 401(k) Plan (an excess contribution) provided that the excess contribution does not exceed the dollar limitation on elective deferrals under the Internal Revenue Code section 402(g) in effect on January 1 of the calendar year of deferral (2013 limitation was $17,500). Cimarex will match 100% of the excess contributions up to 7% of a participant s eligible compensation. A participant may also elect to have up to 50% of his compensation and up to 100% of his bonus withheld from his compensation and allocated to his Plan account. Cimarex does not match these contributions.

Name	Executive Contributions in Last FY(1) ($)	Registrant Contributions in Last FY(2) ($)	Aggregate Earnings in Last FY ($)	Aggregate Withdrawals/ Distributions ($)	Aggregate Balance at Last FYE ($)
Thomas E. Jorden, CEO					
2013	$ 17,500	$ 17,500	$ 173	$	$ 580,126(3)
2012	$ 17,000	$ 17,000	$ 207	$	$ 545,364
2011	$ 16,500	$ 16,500	$ 223	$	$ 511,404

Joseph R. Albi									
2013	$	17,500	$	17,500	$	43,828	$	$	426,712(3)
2012	$	17,000	$	17,000	$	35,895	$	$	318,296
2011	$	16,500	$	16,500	$	(856)	$	$	248,629

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Stephen P. Bell					
2013	$ 17,500	$ 17,500	$ 38,093	$	$ 576,524(3)
2012	$ 17,000	$ 17,000	$ 65,201	$	$ 503,842
2011	$ 16,500	$ 16,500	$ 21,880	$	$ 404,888

(1) The amounts included in this column are also included in the *Salary* column in the *Summary Compensation Table.*

(2) The amounts reported in this column are included in the *All Other Compensation* column and footnote 3 thereto in the *Summary Compensation Table.*

(3) The following table sets forth amounts included in the aggregate balance at December 31, 2013 that were reported as compensation to the named executive officer in the Summary Compensation Table for previous years.

Named Executive Officer	Amount of Previously Reported Compensation
Thomas E. Jorden	$ 479,286
Paul Korus	$ 388,646
Joseph R. Albi	$ 288,816
Stephen P. Bell	$ 368,170
John A. Lambuth	$ 240,680

Potential Payments Upon Change in Control or Termination

We do not consider post-termination benefits as a material element of executive compensation because NEO post-termination benefits are the same benefits available to all full-time employees. Post-termination benefits are not included in the Committee s analysis of total compensation.

We are obligated to make certain payments to employees, including our NEOs, or to accelerate the vesting of their equity awards pursuant to the following plans and agreements:

- Change in Control Severance Plan that covers all full-time employees, including the NEOs

- 2002 Stock Incentive Plan and 2011 Equity Incentive Plan that govern all equity awards made to directors and employees, including the NEOs

- Change in control provisions for the benefit of Messrs. Albi, Bell, Jorden and Korus, as assumed by Cimarex

- Supplemental Savings Plan

Our change-in control arrangements keep our senior executives focused on pursuing all corporate transaction activity that is in the best interests of shareholders regardless of whether those transactions may result in their own job loss. Uncertainty created by a corporate transaction can create retention risk for a company. In addition, change-in-control protection is often needed to retain and attract, when appropriate, the best talent because many of the companies with whom we compete for talent provide change-in-control protection.

We currently do not pay severance benefits nor do our equity award agreements provide for acceleration of equity awards upon the retirement of the NEOs. Individual performance assessments, compensation arising from our annual compensation program (except to the extent provided in the contractual arrangements described above) and overall wealth accumulation are not factors that affect post-termination benefits.

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Change in Control

We are obligated under certain agreements to pay benefits upon a *change in control* event. Cimarex s definition of change in control as used in its 2002 Stock Incentive Plan and its 2011 Equity Incentive Plan, its Change in Control Severance Plan and the change in control provisions that survived certain expired employment agreements with each NEO are the same. In summary, a change in control event means any of the following:

- Acquisition of 30% or more of the shares of our outstanding common stock or the combined voting power of voting securities of Cimarex by an individual or group.

- Members of our Board of Directors, or directors nominated by those directors, cease to constitute a majority of the directors during any period of twelve months.

- A reorganization, share exchange or merger unless (i) the shareholders prior to the reorganization or merger continue to own more than 40% of the outstanding common stock and combined voting power of the resulting corporation following the reorganization or merger; and (ii) at least a majority of the members of the Board of the corporation resulting from the merger or reorganization were members of the Board at the time of executing the agreement to reorganize or merge.

- The complete liquidation or dissolution of Cimarex or the sale of all or substantially all of its assets.

The following is a summary of those agreements that provide for payment to the NEOs in the event of a change in control event coupled with termination of employment without cause:

Change in Control Termination Without Cause

Our Change in Control Plan provides for the payment of severance benefits to all active employees in the event of termination following a change in control. In the event of a change in control, if an employee is terminated for any reason other than cause (as defined in the Plan) within two years following a change in control, that employee would be entitled to:

- Cash severance payments of up to two years salary and cash incentive award.

- A pro rata portion of the annual cash incentive bonus award otherwise payable for the year of termination.

- Continued medical, dental, disability and life insurance benefits for two years.

We assumed from a predecessor company the change in control provisions from the now-expired employment agreements of each of Messrs. Albi, Bell, Jorden and Korus with such company. Each agreement provides that if the executive is terminated without cause following a change in control event (as defined in the agreement), the executive is entitled to a lump-sum payment equal to two times the executive s base salary at the time of the change in control. Benefits payable under these agreements are forfeited if the executive receives benefits under any other change in control plan, including the Cimarex Energy Co. Change in Control Severance Plan. As a practical matter, the change in control benefits assumed under the employment agreements only benefit these executives if the Change in Control Severance Plan described above has been terminated. The Change in Control Severance Plan provides for greater benefits payable upon the occurrence of a change in control event than those payable under the assumed agreements.

Change in Control No Termination

Our 2002 Stock Incentive Plan and our 2011 Equity Incentive Plan provide for acceleration of vesting of equity awards in the event of a change in control.

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Termination of Employment

Death or Disability

The award agreements for grants of equity under the 2002 Stock Incentive Plan and the provisions of the 2011 Equity Incentive Plan provide for acceleration of vesting of awards in the event of death or disability. Benefits under the Supplemental Savings Plan also are paid upon death or disability.

Termination Without Cause

Benefits under the Supplemental Savings Plan are payable to each NEO upon termination of employment.

Estimated Benefits upon Various Termination Scenarios

Payments upon a change in control or termination of employment include various elements of compensation. The elements of compensation that may be included in a change in control or severance payment are:

	(A) ANNUAL AVERAGE CASH COMPENSATION(1)	(B) CASH INCENTIVE(2)	(C) LONG TERM AWARD PAYOUT(3)	(D) SUPPLEMENTAL SAVINGS(4)	(E) OTHER BENEFITS(5)
Thomas Jorden	$ 3,793,616	$ 751,616	$ 17,446,192	$ 580,126	$ 29,712
Paul Korus	$ 2,015,539	$ 463,539	$ 11,985,637	$ 608,523	$ 29,323
Joseph Albi	$ 2,353,077	$ 523,077	$ 13,782,525	$ 426,712	$ 22,170
Stephen Bell	$ 1,948,654	$ 428,654	$ 12,475,137	$ 576,524	$ 11,839
John Lambuth	$ 1,663,077	$ 368,654	$ 7,710,885	$ 351,313	$ 27,963

(1) Amount represents two times the annual average compensation (salary and cash incentive bonus) paid to the executive for 2012 and 2013, as provided in the Change in Control Severance Plan.

(2) Amount represents the average incentive bonus as provided in the Change in Control Severance Plan.

(3) Amount represents the value of accelerated vesting of restricted stock and options based upon the closing price of Cimarex s common stock as of December 31, 2013 of $104.91 per share.

(4) Amount represents estimated payments under the Supplemental Savings Plan.

(5) Amount represents the estimated value of continued medical, dental, disability and life insurance benefits for two years as provided in the Change in Control Severance Plan.

The following table provides the estimated compensation and present value of benefits potentially payable to each NEO in the event of a change in control or termination under various circumstances. The amounts shown assume that the termination or change in control occurred on December 31, 2013. The actual amounts to be paid can only be determined at the time of the executive s actual separation from Cimarex or the occurrence of a change in control. Actual payments may be more or less than the amounts described below. In addition, the company may enter into new arrangements or modify these arrangements, from time to time.

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The following describes potential payments to the NEOs in the event of a change in control or termination under various scenarios. [Note that the alphabetical references in the headings refer to the element of compensation described above]:

NAME	TERMINATION WITHOUT CAUSE (D+(E))(1)	TERMINATION AS A RESULT OF DEATH OR DISABILITY (C+D+E)(1)	CHANGE IN CONTROL (No Termination) (C)(1)	TERMINATION ON CHANGE IN CONTROL (A+B+C+D+E)(1)
Thomas Jorden	$ 609,838	$ 18,056,030	$ 17,446,192	$ 22,601,262
Paul Korus	$ 637,846	$ 12,623,483	$ 11,985,637	$ 15,102,561
Joseph Albi	$ 448,882	$ 14,231,407	$ 13,293,025	$ 17,107,561
Stephen Bell	$ 588,363	$ 13,063,499	$ 12,475,137	$ 15,440,807
John Lambuth	$ 379,276	$ 8,090,161	$ 7,710,885	$ 10,121,892

(1) The alphabetical code refers to the elements of compensation that may be included in a change in control or severance payment as described at the beginning of this section, *Estimated Benefits upon Various Termination Scenarios.*

ADVISORY VOTE TO APPROVE EXECUTIVE COMPENSATION (ITEM 2)

At the 2013 Annual Meeting, 91% of the votes cast were in favor of the advisory vote to approve executive compensation. The Compensation and Governance Committee (the Committee) considered this favorable outcome and believed it conveyed our shareholders support of the Committee s compensation decisions in 2012 and early 2013 and shareholders overall satisfaction with Cimarex s executive compensation programs. Consistent with this support, the Committee decided to retain the core design of our executive compensation programs for the remainder of 2013, as it believes the programs continue to attract, retain and appropriately incent executives.

As part of shareholder engagement, we interact with shareholders on a number of matters throughout the year, including executive compensation and governance. The Committee carefully considers any feedback and routinely reviews executive compensation practices and corporate governance.

At the 2014 Annual Meeting of Shareholders, we will again hold an annual advisory vote to approve executive compensation. The Committee will continue to consider the results from this year s and future advisory votes on executive compensation, as well as feedback from shareholders through the course of such year. A shareholder advisory vote will be held at the 2017 annual meeting to vote again on the frequency of the advisory vote to approve executive compensation, i.e. if the advisory vote should be held every one, two or three years.

Because your vote is advisory, it will not be binding upon the Board. However, the Board values shareholders opinions, and the Committee will take into account the outcome of the vote when considering future executive compensation decisions. The Board recommends that shareholders vote FOR the following resolution:

RESOLVED, that the shareholders approve, on an advisory basis, the compensation of Cimarex s Named Executive Officers, as disclosed in this proxy statement, including the Compensation Discussion and Analysis, the executive compensation tables and the related narrative.

The Board of Directors unanimously recommends a vote FOR the advisory vote to approve executive compensation.

APPROVE 2014 EQUITY INCENTIVE PLAN (ITEM 3)

We are asking our shareholders to approve the Cimarex Energy Co. 2014 Equity Incentive Plan (the 2014 Plan). The 2014 Plan was approved by our Board of Directors on February 25, 2014, subject to approval of our shareholders. If approved by our shareholders, the 2014 Plan will become effective as of the annual meeting date, May 15, 2014. The 2014 Plan will replace our 2011 Equity Incentive Plan (the 2011 Plan).

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Our Board believes that the 2014 Plan will play an important role in our human resource and business strategy by allowing us to continue to attract and retain experienced and highly qualified individuals to contribute to our long-term success. We believe that stock-based compensation fosters and strengthens a sense of proprietorship and personal involvement in our success, thereby advancing the interests of Cimarex and our shareholders.

The 2014 Plan authorizes for issuance a maximum number of shares, subject to adjustment, determined as the sum of 4,700,000 shares of our common stock, *plus* the number of shares remaining available under the 2011 Plan on May 15, 2014 (as of March 3, 2014, 1,810,398 shares), *plus* the number of shares related to awards outstanding under the 2011 Plan as of such date that thereafter terminate unexercised by expiration or are forfeited. The 2014 Plan is a flexible share authorization plan. Shares subject to an award other than an option or stock appreciation right will count as 2.38 shares for every share subject to the award. Shares subject to an option or SAR will count as one share for every share subject to the award.

The Board of Directors recommends a vote FOR approval of the Cimarex Energy Co. 2014 Equity Incentive Plan.

Background and Purpose

The 2014 Plan will replace the 2011 Plan, subject to shareholder approval. The primary purposes of the 2014 Plan are to provide flexibility in the types of available awards and design of awards, modify certain individual award limits and revise the performance measures for qualified performance-based awards.

Equity Plan Costs

Management and our Board are cognizant of the expense attributable to compensatory stock awards, as well as dilution, and strive to maintain both at appropriate levels. We believe that we have demonstrated sound equity compensation practices. Our average three-year burn rate for 2011-2013 was 1.67%, which is under the industry threshold established by Institutional Shareholder Services of 4.3%. While there are several methodologies to arrive at burn rates, we have used the current Institutional Shareholder Services methodology for determining our burn rate for the last three years. The total number of shares authorized for issuance under the 2014 Plan represents approximately 7.4% of our shares of common stock outstanding as of March 3, 2014.

Status of the 2011 Plan

As of March 3, 2014, the equity awards available and outstanding under the 2011 Plan, and their respective features, were as follows:

Options Outstanding	482,612
Restricted Stock (full-value) Outstanding	1,594,802

Weighted average exercise price of outstanding options	$59.88
Weighted average remaining term of outstanding options	5.2 years
Shares available for grant	1,810,398

If the 2014 Plan is not approved by our shareholders, the 2011 Plan will remain in effect in its present form. If the 2014 Plan is approved by shareholders, future equity awards will be made from the 2014 Plan and we will not grant any additional awards under the 2011 Plan. Equity awards previously granted under the 2011 Plan will remain outstanding in accordance with their terms.

2014 Equity Incentive Plan

General

We have included several features in the design of the 2014 Plan that reflect our commitment to effective corporate governance, including:

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- administration by our Compensation and Governance Committee, a committee of independent directors;

- a flexible share authorization plan that provides that the shares available for issuance will be reduced by 1.00 share for each share subject to an award in the form of an option or stock appreciation right or 2.38 shares for each share subject to awards other than an option or stock appreciation right;

- reasonable share counting provisions, which generally provide that when awards expire or are forfeited, the shares reserved for those awards are returned to the share reserve and become available for future awards. However, shares of common stock that are tendered to us in payment of the exercise price of an option, are withheld to cover tax withholding obligations, are repurchased by us with option proceeds, or are not delivered upon exercise of a stock appreciation right are not returned to the share reserve;

- all options and stock appreciation rights must have an exercise price equal to or greater than the fair market value of our common stock on the date of grant and a maximum term of no more than seven years;

- a prohibition on repricing of options and stock appreciation rights or similar actions without shareholder approval;

- award limits on the number of shares and payment amounts for certain individuals during a calendar year; and

- prohibition of dividend or dividend equivalent payments on options or stock appreciation rights and restrictions on dividend or dividend equivalent payments for awards of performance-based stock or units before the award is earned.

Performance-Based Awards

A significant portion of total annual compensation of our executive officers is paid in the form of long-term equity awards to more closely align the interests of management with the long-term interests of our shareholders. The 2014 Plan includes features designed to preserve the deductibility of payments that constitute qualifying performance-based compensation for purposes of section 162(m) of the Internal Revenue Code, as well as to provide for compensation that may not meet such requirements.

Summary of the 2014 Plan

The following summary describes briefly the material terms of the 2014 Equity Incentive Plan (referred to in this discussion as the Plan) and is qualified in its entirety by reference to the full text of the Plan. Please read the full text of the Plan included as ***Appendix A*** to this proxy statement. *Capitalized terms not defined in the summary are defined in the attached Plan document.*

Awards. Awards available under the Plan include options, stock appreciation rights (SARs), restricted stock, restricted stock units, performance shares, performance units, dividend equivalents and other stock-based awards.

Administration. The Plan is administered by our Compensation and Governance Committee (the Committee), which is comprised of non-employee directors of Cimarex. Subject to the provisions of the Plan, the Committee has the authority to select the participants who will receive the grants and awards, determine the type and terms of the grants and awards and interpret and administer the Plan and awards. The Committee may amend, modify or supplement the terms of outstanding awards and exercise certain discretion. To the extent permitted by law, the Committee

may delegate authority to grant awards to certain eligible employees to a subcommittee of the Board or to one or more officers.

Eligibility and Participation. All employees, officers, and directors of Cimarex or an affiliate are eligible to participate in the 2014 Plan when selected by the Committee for an award. Certain consultants and advisers who provide services to us or an affiliate are also eligible to participate when selected by the Committee for an award. As of March 3, 2014, we have approximately 908 full-time employees, and 175 employees and eight non-employee directors are participants in the 2011 Plan.

Stock Subject to the Plan, Adjustments and Share Counting. Subject to shareholder approval, the maximum number of shares of our common stock available for issuance under the 2014 Plan will be the sum of (a) 4,700,000 shares, *plus* (b) the number of shares remaining available under the 2011 Plan determined as of May 15, 2014 (as of March 3, 2014 1,810,398 shares), *plus* (c) the number of shares related to awards under the 2011 Plan and the 2014 Plan that thereafter terminate unexercised by expiration or are forfeited. The shares may be used for any type of award under the 2014 Plan. The number of shares is subject to adjustment on account of a recapitalization, reclassification, split, combination, exchange, stock dividend or similar corporate event. Outstanding awards under the 2014 Plan are also subject to similar adjustments for these types of events. No more than 1,000,000 of the shares will be available for incentive stock options.

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Shares subject to an award other than an option or SAR will count as 2.38 shares for every share subject to the award. Shares subject to an option or SAR will count as one share for every share subject to the award. Shares that relate to awards under the 2014 Plan or the 2011 Plan that terminate unexercised by expiration or are forfeited will be available again for issuance in the same amount as such shares were counted against the share limit. Available plan shares will not be increased for shares tendered or withheld in connection with exercise of an option, withheld to satisfy tax withholding obligations, repurchased by us with option proceeds, or not delivered upon net settlement or net exercise of a SAR.

Shares and Market Value. Shares issuable under the 2014 Plan include shares of our common stock, par value $0.01 per share. On March 3, 2014, the reported closing price per share of our common stock on the NYSE was $115.19.

Individual Award Limits. The 2014 Plan includes individual award limits on the maximum number of shares that may be subject to awards granted to certain individuals during any calendar year as follows:

	Number of Shares
Options or Stock Appreciation Rights	1,000,000
Restricted Stock or Performance Shares	300,000
Non-Employee Director awards	20,000

Stock Options and Stock Appreciation Rights. Each option entitles the holder to purchase a specified number of shares at a specified exercise price. Each option agreement will specify whether the option is an incentive stock option, or ISO (within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended, or the Code), or a nonqualified stock option. Each stock appreciation right entitles the holder to receive, upon exercise, the excess of the fair market value of a share at the time of exercise over the grant price of the stock appreciation right multiplied by the specified number of shares to which the stock appreciation right is being exercised. Except for substitute awards, the exercise or grant price of each option and stock appreciation right will be at least 100 percent of the fair market value of a share on the date the award is granted. The term of any option or stock appreciation right may not exceed seven years and the option or stock appreciation right will vest over a period determined by the Committee. The award agreement may provide that the period of time over which an option other than an incentive stock option and stock appreciation right may be exercised will be automatically extended if on the scheduled expiration date, the exercise of the option or stock appreciation right would violate applicable securities laws or our insider trading policy. Each option or stock appreciation right agreement will specify the consequences to the award with respect to a termination of service with us and our affiliates.

Restricted Stock and Restricted Stock Units. The Committee may grant an award of shares of restricted stock, which is an award of actual shares subject to a risk of forfeiture and restrictions on transfer. The Committee may also grant an award of restricted stock units, which is a bookkeeping entry representing the equivalent of shares of stock. The terms and conditions of any award of restricted stock or restricted stock units will be determined by the Committee. Restrictions may be based upon the achievement of specific performance goals, time-based restrictions on vesting following the attainment of the performance goals, time-based restrictions, holding requirements or any other restrictions determined by the Committee. Except as set forth in the award agreement, upon termination of a participant s services, any unvested shares of restricted stock or restricted stock units will be forfeited.

Performance Awards. The Committee may also grant a performance award in the form of performance shares, performance units, or a cash-based award which vest or payout based on the attainment of performance goals and any other terms and conditions determined by the Committee. The terms and conditions of any award of performance shares, performance units, or a cash-based performance award will be determined by the Committee. Each award agreement will set forth the extent to which the participant will retain performance shares, performance units or cash-based awards upon termination of service.

The Committee may grant one or more awards designed to qualify as performance-based compensation under Section 162(m) of the Code based on the grant, vesting, or payout of such awards being contingent on the achievement of certain pre-established performance goals. The Committee will establish objective performance goals within 90 days of the beginning of the performance period and the formula or other methodology used to determine the number or value of shares, units, or payout of any earned award. The target awards, performance goals and formula or methodology for determining awards need not be the same for all participants.

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A performance goal under the 2014 Plan may be based on one or more of the following measures:

- rate of return on exploration capital;
- stock performance measures (including relative price performance);
- revenue;
- earnings before interest, taxes, depreciation and amortization, or EBITDA;
- funds from operations;
- funds from operations per share;
- operating income;
- pre- or after-tax income;
- production levels;
- proved, probable and/or possible reserve levels and/or additions;
- discounted present value of proved, probable and/or possible reserves;
- cash available for distribution;
- cash available for distribution per share;
- net earnings;
- earnings per share;
- return on investment;
- return on equity;
- return on assets;
- share price performance;
- improvements in the company s attainment of expense levels;
- implementation or completion of critical projects;
- return on capital employed;

- debt, credit or other leverage measure or ratios;
- capital expenditures;
- finding and development costs;
- property or mineral leasehold acquisitions or disposition;
- improvement in cash flow, either before or after tax; and
- any combination or derivation of the any of the foregoing.

The performance goals may be expressed in absolute amounts, on a per share basis, as a growth rate or change from preceding periods, or as a comparison to the performance of specified companies or other external measures, and may be related to one or any combination of corporate, group, unit, division, affiliate or individual performance.

The performance measures may be based on pro forma numbers and may include or exclude the effect of payment of awards under the 2014 Plan and any other incentive or bonus plan of the company. Subject to Section 162(m) requirements, the level of attainment of the performance goal may be adjusted to exclude (a) certain extraordinary or non-recurring items as described in the applicable accounting rules, (b) the effects of any changes in accounting principles affecting the reported results of the company or a business unit, or (c) any other adjustment consistent with the requirements of Section 162(m) that is pre-specified for the plan year by the Committee.

After the applicable performance period has been completed, the Committee will certify the level of achievement of the performance goals and determine the number or value of any earned award.

Other Stock-Based Awards. The Committee may grant other types of stock-based awards in which participants may (a) acquire shares of stock or (b) receive an award, whether payable in cash or stock, the value of which is determined in whole or in part, based on the value of our common stock, subject to the terms and conditions of the 2014 Plan.

Dividends and Dividend Equivalents. The Committee will determine and set forth in the award agreement whether the participant will be entitled to receive (currently or on a deferred basis) dividends or dividend equivalents with respect to shares of stock covered by the award; *provided, however,* in no event may dividends or dividend equivalents be paid on (i) options or stock appreciation rights or (ii) awards that vest or pay based on the attainment of performance goals until and to the extent the award is earned, although amounts can be accumulated. The Committee may provide that any dividends paid on shares subject to an award will be reinvested in additional shares of stock, which may or may not be subject to the same vesting conditions and restrictions applicable to the award.

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Tax Withholding. The 2014 Plan provides that participants may elect to satisfy certain federal, state, and local income tax and employment tax withholding requirements by remitting to us cash or, subject to certain conditions, shares, or by instructing us to withhold shares payable to the participant.

Change in Control. Upon the occurrence of a change in control, generally: (a) the unvested portion of any outstanding options and stock appreciation rights will become immediately and automatically vested; (b) the unvested portion of a restricted stock award will become immediately and automatically vested and payable; the unvested portion of a restricted stock unit award will become immediately and automatically vested and payable, subject to applicable tax rules; and (c) the performance period for outstanding unvested performance shares and performance units will be deemed completed and the extent to which the applicable performance goals have been satisfied will be determined, subject to adjustment for the date of the change in control.

For purposes of the 2014 Plan, a change in control occurs upon the occurrence of any one of the following events:

- Any individual, entity or group becomes the beneficial owner of 30 percent or more of either our outstanding shares of common stock or the combined voting power of our voting securities; or

- The directors on our Board at the beginning of any 12-month period, or directors nominated by those directors, cease to constitute a majority of the Board; or

- There is a reorganization, share exchange or merger unless (a) following such business combination the beneficial owners of the then outstanding shares of our common stock and outstanding voting securities prior to such business combination beneficially own, directly or indirectly, more than 40 percent of the then outstanding shares and combined voting power of the securities entitled to vote generally in the election of directors in substantially the same proportions as their ownership immediately prior to such business combination and (b) at least a majority of the board resulting from such business combination were members of the incumbent board; or

- The closing of (a) a complete liquidation or dissolution of the company or (b) the sale or disposition of all or substantially all of the assets of the company.

Recoupment of Awards. Awards granted or amounts payable under the 2014 Plan will be subject to the terms of any company compensation recoupment policy then applicable, if any, to the extent the policy applies to such award or amount and any provisions of applicable law relating to cancellation, rescission, payback, or recoupment of compensation.

Repricing. Except for adjustments to reflect the effects of certain corporate transactions, the 2014 Plan requires shareholder approval of any amendment or modification to outstanding options or stock appreciation rights that reduces the exercise or grant price, either by lowering the exercise or grant price or by cancelling and replacing the award with a lower exercise or grant price; or provides for a cancellation for cash or another award if the exercise or grant price is higher than the then-current fair market value; or provides for any other change that would be treated as a repricing by the stock exchange upon which our shares are traded.

Amendment and Termination. Generally, our Board may amend, modify or terminate the 2014 Plan at any time; *provided, however,* that no amendment or modification may become effective without approval of shareholders if shareholder approval is required to satisfy any applicable statutory or regulatory requirements or if we determine shareholder approval is otherwise necessary or desirable.

Plan Term. Subject to approval by our shareholders, the 2014 Plan will become effective May 15, 2014 and will terminate on May 15, 2024, ten years from the effective date.

Federal Income Tax Information

The following is intended only as a brief general summary of the current material U.S. federal income tax aspects of awards granted under the 2014 Plan. The tax consequences to a participant will depend upon the type of award granted to the participant. In general, if a participant recognizes ordinary income in connection with the grant, vesting, or exercise of an award, we will be entitled to a corresponding deduction equal to the amount of the income tax recognized by the participant. This summary does not address the effects of other federal taxes (including possible excise taxes) or taxes imposed under state, local, or foreign tax laws. Tax consequences may vary depending on particular circumstances, and administrative and judicial interpretations of the application of the federal income tax laws are subject to change.

Options and Stock Appreciation Rights. In general, a participant does not have taxable income upon the grant of an option or a stock appreciation right. The participant will recognize ordinary income upon exercise of a nonqualified stock option equal to

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the excess of the fair market value of shares acquired on exercise over the aggregate option price for the shares. Upon exercising a stock appreciation right, the participant will recognize ordinary income equal to the cash or fair market value of the shares received over the aggregate base price for the shares. A participant will not recognize ordinary income upon exercise of an incentive stock option, or ISO, except that the alternative minimum tax may apply. If a participant disposes of shares acquired upon exercise of an ISO before the end of the applicable holding periods, the participant will recognize ordinary income. Otherwise, a sale of shares acquired by exercise of an option or a stock appreciation right generally will result in short-term or long-term capital gain or loss measured by the difference between the sale price and the participant s tax basis in the shares. We normally can claim a tax deduction equal to the amount recognized as ordinary income by a participant in connection with an option or stock appreciation right, but no tax deduction relating to a participant s capital gains. We will not be entitled to any tax deduction with respect to an ISO if the participant holds the shares for the applicable ISO holding periods before selling or transferring the shares.

Restricted Stock, Restricted Stock Units, Performance Awards, and Other Stock-Based Awards. If an award is subject to a restriction on transferability and a substantial risk of forfeiture (for example, restricted stock), the participant generally must recognize ordinary income equal to the fair market value of the transferred amounts at the earlier of the removal of the restrictions on transferability or when the risk of forfeiture lapses. However, the participant may elect under Section 83(b) of the Code within 30 days of the date of grant to recognize ordinary income on shares of restricted stock as of the date of grant equal to the excess of the fair market value of the shares on the date of grant, over the amount paid, if any. If an award has no restriction on transferability or is not subject to a substantial risk of forfeiture, the participant generally must recognize ordinary income equal to the cash or the fair market value of shares received. If a participant receives an award which includes a performance and/or vesting requirement or other restriction that must be satisfied prior to payment or receipt of shares, the participant will generally not recognize income for federal income tax purposes at the time of grant of such award and we are not entitled to a deduction at that time. At the time the performance and/or vesting requirements or other restrictions are satisfied, the participant will recognize ordinary income in an amount equal to the fair market value of any shares delivered or the amount of any cash paid. If a participant sells or disposes of shares delivered to the participant pursuant to an award, the participant will recognize short-term or long-term capital gain or loss measured by the difference between the sale price and the participant s tax basis in the shares.

Section 409A. Section 409A of the Code imposes election, payment and funding requirements on nonqualified deferred compensation plans. If a nonqualified deferred compensation arrangement subject to Section 409A of the Code fails to meet, or is not operated in accordance with, the requirements of Section 409A, then compensation deferred under the arrangement may become immediately taxable and subject to a 20 percent additional tax. Certain awards that may be issued under the 2014 Plan may constitute a deferral of compensation subject to the requirements of Section 409A of the Code.

Section 162(m). Compensation that qualifies as performance-based compensation is excluded from the $1 million deduction limitation of Section 162(m). Under the 2014 Plan, options, and stock appreciation rights granted with an exercise price at least equal to 100 percent of the fair market value of the underlying shares on the date of grant and certain other awards paid to covered employees that are conditioned upon achievement of performance goals are intended to qualify as performance-based compensation. A number of requirements must be met in order for compensation paid or earned with respect to an award granted under the 2014 Plan to qualify as performance-based compensation for purposes of Section 162(m).

New Plan Benefits

Subject to the approval of our shareholders, the 2014 Plan will become effective May 15, 2014. As of the date of this proxy statement, no awards have been granted under the 2014 Plan. Awards are subject to the discretion of the Compensation and Governance Committee and are therefore not determinable.

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Equity Plan Compensation Table

The following table presents information about outstanding options, warrants and rights and the number of shares remaining available for future issuance under our 2011 Plan as of December 31, 2013. Subject to shareholder approval of the 2014 Equity Incentive Plan, any shares remaining available for future issuance under the 2011 Plan, as set forth column (c) will be available under the 2014 Plan.

	Number of shares to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of shares remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a) (c)
Equity compensation plans approved by shareholders	531,016(1)	$ 59.783	1,809,228(2)
Equity compensation plans not approved by shareholders	-	-	-
Total	531,016(1)	$ 59.783	1,809,228(2)

(1) Represents shares issuable upon the exercise of outstanding nonqualified stock options issued under our 2011 Plan. Cimarex does not have any options, warrants or rights outstanding or available for issuance under any non-shareholder approved equity compensation plans.

(2) Represents shares available for future issuance under our 2011 Plan. Shares subject to options granted under the 2011 Plan count as one share, and full-value awards (restricted stock, restricted stock units, performance stock and performance stock units) count as 2.34 shares against the number of shares available for issuance under the 2011 Plan.

REPORT OF AUDIT COMMITTEE

The Audit Committee on behalf of the Board of Directors oversees (i) the quality of the Company s financial reporting; (ii) the independent auditors qualifications and independence; and (iii) the performance of the Company s internal auditors and independent auditors. In so doing, it is the responsibility of the Committee to maintain free and open communication between the directors, the independent auditors and the management of the Company. All members of the Audit Committee meet the independence, experience and financial literacy requirement of the New York Stock Exchange, the Sarbanes Oxley Act and any rules or regulations promulgated by the Securities and Exchange Commission. The Board of Directors has adopted a written charter for the Audit Committee, a copy of which is available on our website at www.cimarex.com.

Management is responsible for the Company s financial statements and the financial reporting process, including the systems of internal controls and disclosure controls and procedures. The Company s independent registered public accounting firm is responsible for performing an independent audit of the Company s financial statements in accordance with generally accepted auditing standards and issuing a report thereon. The Audit Committee s responsibility is to monitor and oversee these processes and uses the Company s internal audit department to assist with these responsibilities.

The Audit Committee reviewed Cimarex s audited financial statements as of and for the year ended December 31, 2013 and met with both management and KPMG, Cimarex s independent public accounting firm, to discuss those financial statements and the effectiveness of Cimarex s

internal control over financial reporting. In addition, we have received from KPMG the communication required by Public Company Accounting Oversight Board (PCAOB) Rule 3526, *Communication with Audit Committees Covering Independence,* and discussed with KPMG their independence from Cimarex and its management. The Audit Committee also discussed with KPMG any matters required by the PCAOB Auditing Standards, No. 16, *Communication with Audit Committees.*

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Based on these reviews and discussions, the Audit Committee recommended to the Board of Directors that Cimarex s audited financial statements be included in Cimarex s Annual Report on Form 10-K for the fiscal year ended December 31, 2013.

THE AUDIT COMMITTEE
Monroe W. Robertson, Chairman
Harold R. Logan, Jr.
Floyd R. Price
Michael J. Sullivan

The Audit Committee Report does not constitute soliciting material and shall not be deemed to be filed or incorporated by reference into any other Company filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except to the extent that the Company specifically incorporates the Audit Committee Report by reference.

RATIFICATION OF INDEPENDENT AUDITORS (ITEM 4)

The Audit Committee of the Board has appointed KPMG LLP to audit our financial statements for 2014. Since October 1, 2002, KPMG LLP has served as our independent auditors.

We are asking that shareholders ratify the appointment of KPMG LLP as independent auditor. If shareholders fail to ratify the appointment, the Audit Committee may reconsider this appointment. A KPMG LLP representative will be at the Annual Meeting to answer appropriate questions and to make a statement if he or she desires.

The Board of Directors recommends a vote FOR the ratification of KPMG LLP as Cimarex s independent auditors for 2014.

Audit and Non-Audit Fees

The following table shows the fees for professional services rendered by KPMG LLP for the audit of Cimarex s annual financial statements for the years ended December 31, 2013 and December 31, 2012, and fees billed for other services rendered by KPMG LLP during those periods:

	Years Ended December 31,	
	2013	2012
Audit Fees(1)	$ 1,076,127	$ 1,056,909
Audit-Related Fees(2)	$ 0	$ 80,000
Tax Fees(3)	$ 175,056	$ 216,001
All Other Fees	$ 0	$ 0

(1) Audit fees were principally for audit work performed on the consolidated financial statements and internal controls over financial reporting.

(2) Audit-related fees were principally for services associated with SEC registration statements, periodic reports and other documents filed with the SEC or issued in connection with securities offerings, e.g., comfort letters and consents and assistance in responding to SEC comment letters.

(3) Tax fees were principally for services related to tax compliance and reporting and analysis services.

Policy for Approval of Audit, Audit-Related and Tax Services

The Audit Committee annually reviews and pre-approves certain categories of audit, audit-related and tax services to be performed by our independent auditors, subject to a specified range of fees. The Audit Committee also may pre-approve specific services. Certain non-audit services as specified by the SEC may not be performed by our independent auditors. The Audit Committee may delegate pre-approval authority to one or more of its members. In the event of any such delegation, any pre-approved decisions will be reported to the Audit Committee at its next scheduled meeting. The services described in the above table were pre-approved by the Audit Committee in 2012 and 2013.

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OTHER MATTERS

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934 requires our directors and executive officers, and persons who own more than 10% of our common stock, to file reports of ownership of, and transactions in, our common stock with the SEC. Based on a review of such reports, and on written representations from our reporting persons, we believe that all reports were timely filed in 2013.

Complaint and Reporting Procedures

We have established complaint and reporting procedures that are posted on our website at www.cimarex.com. Any person, whether or not an employee, who has a concern about the conduct of Cimarex or any of our people, including accounting, internal accounting controls or auditing issues, may, in a confidential or anonymous manner, communicate that concern by calling our confidential hotline, 1-866-519-1898. Any interested party, whether or not an employee, who wishes to communicate directly with non-management directors may call the confidential hotline. The hotline is available 24 hours a day, seven days a week and is completely confidential. Comments will be typed verbatim and will be delivered to a representative with authority to investigate the concern.

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CIMAREX ENERGY CO.

2014 EQUITY INCENTIVE PLAN

1. ESTABLISHMENT AND PURPOSE

1.1 ***Establishment.*** Cimarex Energy Co., a Delaware corporation (the ***Company***) hereby establishes and adopts the Cimarex Energy Co. 2014 Equity Incentive Plan (the ***Plan***).

1.2 ***Purpose.*** The purpose of the Plan is to promote the interests of the Company by granting awards to certain employees, directors and other service providers of the Company or its Affiliates as an additional incentive for them to contribute to the long-term financial success of the Company.

2. DEFINITIONS

For purposes of interpreting the Plan and related documents (including Award Agreements), the following definitions shall apply:

2.1 ***Affiliate*** means (a) any company or other trade or business that controls, is controlled by or is under common control with the Company (including any ***Subsidiary*** within the meaning of Section 424(f) of the Code) or (b) any entity in which the Company has a significant equity interest, as determined by the Committee.

2.2 ***Award*** means any Option, Stock Appreciation Right, Restricted Stock Award, Restricted Stock Unit, Performance Share, Performance Unit, Dividend Equivalent, or Other Stock-Based Award granted under the Plan.

2.3 ***Award Agreement*** means the written agreement, contract or other instrument or document evidencing any Award under the Plan. Award Agreements and other Plan documents may be delivered or accepted electronically using electronic mail, the Internet or any other form of electronic communication. Each Award Agreement is subject to the terms and conditions of the Plan. In the event of any inconsistency between the provisions of the Plan and any Award Agreement, the provisions of the Plan shall govern.

2.4 ***Board*** or ***Board of Directors*** means the board of directors of the Company.

2.5 ***Cause*** means, with respect to any Participant, as determined by the Committee and unless otherwise provided in an applicable agreement between the Participant and the Company or an Affiliate, (a) gross negligence or willful misconduct in connection with performance of duties; (b) conviction of a criminal offense (other than minor traffic offenses); or (c) material breach of any term of any employment, consulting or other services, confidentiality, intellectual property or non-competition agreement, if any, between the Participant and the Company or an Affiliate. Any determination by the Committee whether an event constituting Cause has occurred will be final, binding and conclusive.

2.6 ***Change in Control*** means and shall be deemed to have occurred upon the occurrence of any one of the following:

(a) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) (a ***Person***) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 30% or more of either (i) the then outstanding shares of Common Stock (the ***Outstanding Company Common Stock***) or (ii) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the ***Outstanding Company Voting Securities***); *provided, however*, that for purposes of this subsection (a), the following acquisitions shall not constitute a Change in Control: (A) any acquisition directly from the Company, (B) any acquisition by the Company, (C) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the

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Company or any corporation controlled by the Company or (D) any acquisition by any corporation pursuant to a transaction that described in clauses (i) and (ii) of subsection (c) below; or

(b) During any period of twelve months beginning after the Effective Date, individuals who, as of the Effective Date, constitute the Board (the ***Incumbent Board***) cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual becoming a director at the beginning of such twelve-month period, whose election, appointment or nomination for election by the Company s stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(c) The closing of a reorganization, share exchange or merger (a ***Business Combination***), in each case, unless, following such Business Combination, (i) all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Company Common Stock and Outstanding Voting Securities immediately prior to such Business Combination will beneficially own, directly or indirectly, more than 40% of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from such Business Combination (including, without limitation, a corporation which as a result of such transaction will own the Company through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Business Combination of the Outstanding Company Common Stock and Outstanding Company Voting Securities, as the case may be and (ii) at least a majority of the members of the board of directors of the corporation resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination or were elected, appointed or nominated by the Board; or

(d) The closing of (i) a complete liquidation or dissolution of the Company or, (ii) the sale or other disposition of all or substantially all of the assets of the Company, other than to a corporation, with respect to which following such sale or other disposition, (A) more than 40% of, respectively, the then outstanding shares of common stock of such corporation and the combined voting power of the then outstanding voting securities of such corporation entitled to vote generally in the election of directors is then beneficially owned, directly or indirectly, by all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Company Common Stock and Outstanding Company Voting Securities immediately prior to such sale or other disposition in substantially the same proportion as their ownership, immediately prior to such sale or other disposition, of the Outstanding Company Common Stock and Outstanding Company Voting Securities, as the case may be, and (B) at least a majority of the members of the board of directors of such corporation were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such sale or other disposition of assets of the Company or were elected, appointed or nominated by the Board.

If required for compliance with Section 409A of the Code, in no event will a Change in Control be deemed to have occurred if the transaction is not also a change in ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company as determined under Treasury Regulation Section 1.409A-3(i)(5).

2.7 ***Code*** means the Internal Revenue Code of 1986, as amended from time to time, and the regulations, interpretations, and administrative guidance issued thereunder.

2.8 ***Committee*** means the Compensation and Governance Committee of the Board, or such other committee performing the functions of a compensation committee, or, if such committee of the Board has not been appointed, the Board.

2.9 ***Covered Employee*** means a covered employee within the meaning of Section 162(m)(3) of the Code, or any successor provision.

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2.10 ***Disabled*** or ***Disability*** means, unless otherwise provided in an employment, consulting or other services agreement, if any, or Award Agreement between the Participant and the Company or an Affiliate, the Participant (a) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or (b) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the Company.

2.11 ***Dividend Equivalent*** means a right granted under Section 11 to receive cash, Shares, other Awards or other property equal in value to dividends paid with respect to a specific number of Shares.

2.12 ***Effective Date*** means May 15. 2014, subject to approval of the Plan by the Company s stockholders on such date. The Plan was approved by the Board on February 25, 2014.

2.13 ***Employee*** means, as of any date of determination, an employee (including an officer) of the Company or an Affiliate.

2.14 ***Exchange Act*** means the U.S. Securities Exchange Act of 1934, as it may be amended from time to time, or any successor act thereto.

2.15 ***Exercise Price*** means the exercise price for each Share subject to an Option.

2.16 ***Fair Market Value*** means, unless otherwise determined by the Committee, the fair market value of a Share as of a particular date, determined as follows: (a) the closing sale price reported for such Share on the national securities exchange or national market system on which such stock is principally traded, or if no sale of Shares is reported for such trading day, on the next preceding day on which a sale was reported, or (b) if the Shares are not then listed on a national securities exchange or national market system, or the value of such Shares is not otherwise determinable, such value as determined by the Committee in good faith in its sole discretion consistent with the requirements under Section 409A of the Code.

2.17 ***Family Member*** means a person who is a spouse, former spouse, child, stepchild, grandchild, parent, stepparent, grandparent, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law, or sister-in-law, including adoptive relationships, of the Participant, a trust in which any one or more of these persons have more than fifty percent (50%) of the beneficial interest, a foundation in which any one or more of these persons (or the Participant) control the management of assets, and any other entity in which one or more of these persons (or the Participant) own more than fifty percent (50%) of the voting interests; provided, however, that to the extent required by applicable law, the term Family Member shall be limited to a person who is a spouse, former spouse, child, stepchild, grandchild, parent, stepparent, grandparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law, or sister-in-law, including adoptive relationships, of the Participant or a trust or foundation for the exclusive benefit of any one or more of these persons.

2.18 ***Grant Date*** means, as determined by the Committee, the latest to occur of (a) the date on which the Committee approves an Award, (b) the date on which the recipient of an Award first becomes eligible to receive an Award under Section 5, or (c) such other date as may be specified by the Committee in the Award Agreement.

2.19 ***Minimum Statutory Withholding*** means as defined in Section 12.

2.20 ***Non-Employee Director*** means a non-employee member of the Board.

2.21 ***Option*** means a right granted to a Participant to purchase Shares at such time and price, and subject to such other terms and conditions as are set forth in the Plan and Award Agreement. An Option granted under the Plan may be an ***Incentive Stock Option*** within the meaning of Section 422 of the Code or a ***Non-Qualified Stock Option***, which does not meet the requirements of such Code section.

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2.22 ***Other Stock-Based Award*** means an Award that is granted to a Participant under Section 10.

2.23 ***Participant*** means any Employee, Non-Employee Director or other Service Provider of the Company or an Affiliate who has met the eligibility requirements set forth in Section 5 and to whom an Award has been made under the Plan.

2.24 ***Performance Award*** means an Award of Performance Shares or Performance Units granted to a Participant under Section 9.

2.25 ***Performance Goals*** means as defined in Section 9.2.

2.26 ***Performance Period*** means the period established by the Committee at the time any Performance Award is granted or at any time thereafter during which any performance goals specified by the Committee with respect to the Award are to be measured.

2.27 ***Performance Shares*** means an Award of Shares granted to a Participant under Section 9, subject to such other terms and conditions as are set forth in the Plan and Award Agreement.

2.28 ***Performance Units*** means an Award granted to a Participant under Section 9, payable in cash or, in the discretion of the Committee, in Shares or in a combination of cash and Shares, subject to such other terms and conditions as are set forth in the Plan and Award Agreement.

2.29 ***Prior Plan*** means the Cimarex Energy Co. 2011 Stock Incentive Plan.

2.30 ***Restricted Stock*** means a Share granted to a Participant under Section 8, which is subject to restrictions set forth in Section 8.3 and to such other terms and conditions as are set forth in the Plan and Award Agreement.

2.31 ***Restricted Stock Unit*** or ***RSU*** means a right granted to a Participant under Section 8 to receive, in the discretion of the Committee, Shares, a cash payment equal to the Fair Market Value of Shares or a combination of cash or Shares, subject to such other terms and conditions as are set forth in the Plan and Award Agreement.

2.32 ***Restriction Period*** means the period during which Restricted Stock or Restricted Stock Units are subject to a substantial risk of forfeiture (based upon the passage of time, the achievement of Performance Goals or upon the occurrence of other events as determined by the Committee, in its discretion), as provided in Sections 8.3 and 8.4.

2.33 ***Securities Act*** means the U.S. Securities Act of 1933, as it may be amended from time to time, or any successor act thereto.

2.34 ***Service*** means service as a Service Provider to the Company or an Affiliate. Unless otherwise stated in the applicable Award Agreement, a Participant s change in position or duties shall not result in interrupted or terminated Service, so long as such Participant continues to be a Service Provider to the Company or an Affiliate. Whether a termination of Service shall have occurred for purposes of the Plan shall be determined by the Committee, which determination shall be final, binding and conclusive.

2.35 ***Service Provider*** means an Employee, officer or director of the Company or an Affiliate, or a consultant or adviser currently providing services to the Company or an Affiliate.

2.36 ***Share*** means a share of common stock, par value $0.01 per share of the Company.

2.37 ***Stock Appreciation Right*** or ***SAR*** means a right granted to a Participant under Section 7 to receive an amount determined in accordance with Section 7.3, subject to such other terms and conditions as are set forth in the Plan and the Award Agreement.

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2.38 ***Substitute Awards*** means Awards granted in substitution for, or in assumption of, outstanding awards previously granted by an entity affiliated with or acquired by the Company, with which the Company combines or from which the Company has separated.

3. PLAN ADMINISTRATION

3.1 ***General.*** The Plan shall be administered by the Committee, which shall have full power and authority to take all actions and to make all determinations as are required or permitted under the Plan.

(a) In accordance with the provisions of the Plan, the Committee shall, in its sole discretion, select the Participants from among the eligible individuals described in Section 5, determine the Awards to be made pursuant to the Plan, or Shares to be issued thereunder and the time at which such Awards are to be made, fix the Option Price (or Grant Price), determine the period and manner in which an Option (or Stock Appreciation Right) becomes exercisable, establish the duration and nature of Restricted Stock or Restricted Stock Unit restrictions, establish the terms and conditions of Performance Awards, and establish such other terms and requirements of the various Awards under the Plan as the Committee may deem necessary or desirable and consistent with the terms of the Plan. The Committee shall determine the form of the Award Agreements that shall evidence the particular provisions, terms, conditions, rights and duties of the Company and the Participants with respect to Awards granted pursuant to the Plan, which provisions need not be identical except as may be provided herein.

(b) Subject to Section 3.4, the Committee may amend, modify, or supplement the terms of any outstanding Award including, but not limited to, amending an Award or exercising discretion under an Award or under the Plan to: (i) accelerate the date on which an Award becomes vested, exercisable, or transferable, (ii) extend the term of any Award, including the period following the termination of the Service Provider s Service to the Company during which the Award shall remain outstanding, (iii) waive any conditions with regard to vesting, exercisability, or transferability of an Award, and (iv) recognize differences in local law, tax policy, or custom with regard to Awards made to foreign nations or individuals who are employed outside the United States. Notwithstanding the foregoing, no amendment or modification may be made to an outstanding Option or Stock Appreciation Right that causes the Option or Stock Appreciation Right to become subject to Section 409A of the Code, without the Participant s written consent; *provided, however*, appropriate adjustments may be made to outstanding Options and Stock Appreciation Rights pursuant to Section 13.

(c) As a condition to any Award, the Committee shall have the right, in its discretion, to require Participants to return to the Company Awards previously granted under the Plan. Subject to the terms and conditions of the Plan, any such subsequent Award shall be upon such terms and conditions as are specified by the Committee at the time the new Award is granted. The Company may retain the right in an Award Agreement to cause a forfeiture of the gain realized by a Participant on account of actions taken by the Participant in violation or breach of or in conflict with any non-competition agreement, any agreement prohibiting solicitation of employees of the Company or any Affiliate thereof or any confidentiality obligation with respect to the Company or any Affiliate thereof or otherwise in competition with the Company or any Affiliate thereof, to the extent specified in such Award Agreement applicable to the Participant. Furthermore, the Committee may annul an Award if the Participant is an Employee of the Company or an Affiliate thereof and is terminated for Cause as defined in the applicable Award Agreement or the Plan, as applicable.

(d) The Committee may from time to time adopt such rules and regulations for carrying out the purposes of the Plan as it may deem proper and in the best interests of the Company. The Committee may correct any defect, supply any omission or reconcile any inconsistency in the Plan or in any Award Agreement in the manner and to the extent it shall deem expedient and it shall be the sole and final judge of such expediency. The determinations, interpretations and other actions of the Committee pursuant to the provisions of the Plan shall be binding, final and conclusive for all purposes and on all persons.

3.2 ***Delegation by the Committee or the Board.*** The Committee or the Board may, from time to time, delegate to one or more officers of the Company, and the Board may delegate to one or more committees of the Board (including committees of the Board consisting solely of one or more members of the Board who are also officers of the Company), the power and authority to grant or document Awards under the Plan to specified groups of eligible individuals, subject to such restrictions and conditions as the Committee or the Board, in their sole

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discretion, may impose. The delegation shall be as broad or as narrow as the Committee or the Board shall determine. To the extent that the Committee or the Board has delegated the authority to determine certain terms and conditions of an Award, all references in the Plan to the Committee s exercise of authority in determining such terms and conditions shall be construed to include the officer or officers, or the Board committee or committees, to whom the Committee or the Board has delegated the power and authority to make such determination. However, no delegation will be made if it would (a) result in the loss of an exemption under Rule 16b-3(d) for Awards granted to Participants subject to Section 16 of the Exchange Act in respect of the Company, (b) cause Awards intended to qualify as performance-based compensation under Section 162(m) of the Code to fail to so qualify, (c) result in a related-person transaction with an executive officer required to be disclosed under Item 404(a) of Regulation S-K (in accordance with Instruction 5.a.ii thereunder) under the Exchange Act, or (d) be impermissible under the Delaware General Corporation Law.

3.3 ***Recoupment of Awards.*** Notwithstanding any other provision of this Plan to the contrary, any Award granted or amount payable or paid under this Plan shall be subject to the terms of any compensation recoupment policy then applicable, if any, of the Company, to the extent the policy applies to such award or amount. By accepting an award or the payment of any amount under the Plan, each Participant agrees and consents to the Company s application, implementation and enforcement of (a) any such policy and (b) any provision of applicable law relating to cancellation, rescission, payback or recoupment of compensation and expressly agrees that the Company may take such actions as are permitted under the policy or applicable law without further consent or action being required by such Participant. To the extent that the terms of this Plan and the policy or applicable law conflict, then the terms of the policy or applicable law shall prevail.

3.4 ***No Repricing.*** Notwithstanding any other provision of the Plan, no amendment or modification may be made to an outstanding Option or Stock Appreciation Right that (a) reduces the Exercise Price or Grant Price, either by lowering the Exercise Price or Grant Price or by canceling the outstanding Option or Stock Appreciation Right and granting a replacement Option or Stock Appreciation Right with a lower Exercise Price or Grant Price or by cancellation for cash or another Award if the Exercise Price or Grant Price is higher than the current Fair Market Value, or (b) would be treated as a repricing under the rules of the exchange upon which Shares of the Company trade, without the approval of the stockholders of the Company; *provided, however*, that appropriate adjustments may be made to outstanding Options and Stock Appreciation Rights pursuant to Section 13.

3.5 ***Limitations on Authority.*** The Committee shall, in exercising its discretion under the Plan, comply with all contractual and legal obligations of the Company or the Committee in effect from time to time, whether contained in the Company s charter, bylaws, or other binding contract, or in the Committee s charter, or in applicable law.

3.6 ***Deferral Arrangement.*** The Committee may permit or require the deferral of any Award payment into a deferred compensation arrangement, subject to such rules and procedures as it may establish in accordance with Section 409A of the Code, which may include provisions for the payment or crediting of interest or Dividend Equivalents, including converting such credits into deferred stock units.

3.7 ***No Liability.*** No member of the Board or of the Committee shall be liable for any action or determination made in good faith with respect to the Plan, any Award or any Award Agreement.

3.8 ***Book Entry.*** Notwithstanding any other provision of this Plan to the contrary, the Company may elect to satisfy any requirement under this Plan for the delivery of stock certificates through the use of electronic or other forms of book-entry.

4. STOCK SUBJECT TO THE PLAN

4.1 ***Number of Shares.*** Subject to adjustment as provided in Section 13, the maximum number of Shares available for issuance under the Plan will be equal to the sum of (a) 4,700,000 Shares plus (b) the number of Shares available for future Awards under the Prior Plan as of the Effective Date of this Plan plus (c) such additional Shares that become available under the Prior Plan or the Plan pursuant to Section 4.3. Subject to adjustment as provided in Section 13, 1,000,000 Shares available under the Plan will be available for issuance pursuant to Incentive Stock Options. Shares issued or to be issued under the Plan shall be either authorized but unissued Shares

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or, to the extent permitted by applicable law, issued Shares that have been reacquired by the Company or any Subsidiary.

4.2 ***Individual Award Limits.***

(a) ***Awards Granted to Eligible Persons Other Than Non-Employee Directors.*** For purposes of complying with Section 162(m) of the Code, the maximum number of Shares that may be subject to: (i) Options or Stock Appreciation Rights that are granted to an eligible person other than a Non-Employee Director during any calendar year shall be 1,000,000 Shares and (ii) for Awards other than Options or Stock Appreciation Rights that are granted to an eligible person other than a Non-Employee Director during any calendar year shall be limited to 300,000 Shares, in each case for each such Award type individually. The maximum amount that may be paid as a cash-settled Performance Award during a calendar year for a Performance Period to an eligible person other than a Non-Employee Director shall be limited to $5 million dollars. The limitations in this Section 4.2(a) are subject to adjustment as provided in Section 13.

(b) ***Awards Granted to Non-Employee Directors.*** The maximum number of Shares that may be subject to an Award granted to any Non-Employee Director during any calendar year shall be limited to 20,000 Shares for all such Awards in the aggregate, subject to adjustment as provided in Section 13.1

4.3 ***Share Counting.*** Shares subject to an Award will be counted as used as of the Grant Date.

(a) For each Share subject to an Award of an Option or a Stock Appreciation Right, the number of Shares available for issuance under the Plan shall be reduced by one Share. For each Share subject to an Award other than an Option or Stock Appreciation Right, the number of Shares available for issuance under the Plan shall be reduced by 2.38 Shares. The target number of Shares issuable under a Performance Share grant will be counted against the share issuance limit set forth in Section 4.1 as of the Grant Date, but such number will be adjusted to equal the actual number of Shares issued upon settlement of the Performance Shares to the extent different from such target number of Shares.

(b) Notwithstanding anything to the contrary in Section 4.1, any Shares related to Awards under the Plan or the Prior Plan that terminate unexercised by expiration or are forfeited will be available again for issuance under the Plan in the same amount as such Shares were counted against the limit set forth in Section 4.1.

(c) The number of Shares available for issuance under the Plan will not be increased by the number of Shares (i) tendered or withheld or subject to an Award granted under the Plan or the Prior Plan surrendered in connection with the Shares upon exercise of an Option, (ii) deducted or delivered from payment of an Award granted under the Plan or the Prior Plan in connection with the Company s tax withholding obligations pursuant to Section 12, (iii) purchased by the Company with proceeds from Option exercises, or (iv) subject to a SAR granted under the Plan that is settled in Shares that were not issued upon the net settlement or net exercise of such SAR.

5. ELIGIBILITY AND PARTICIPATION

Awards may be made under the Plan to any Service Provider, as the Committee will determine and designate from time to time. An eligible person may receive more than one Award, subject to such restrictions as are provided herein.

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6. STOCK OPTIONS

6.1 ***Grant of Options.*** Subject to the provisions of this Plan, Options may be granted to Participants in such number, and upon such terms, and at any time and from time to time as shall be determined by the Committee, it its sole discretion; provided that Incentive Stock Options may be granted only to eligible Employees of the Company or of any parent corporation or subsidiary corporation (as permitted by Section 422 of the Code).

6.2 ***Award Agreement.*** Each Option granted under the Plan will be evidenced by an Award Agreement that shall specify the Exercise Price, the number of Shares covered by the Option, the maximum duration of the Option, the conditions upon which the Option will become vested and exercisable and such other provisions as the Committee shall determine, consistent with the terms of the Plan. The Award Agreement shall specify whether the Option is intended to be an Incentive Stock Option or a Non-Qualified Stock Option.

(a) ***Exercise Price.*** The Exercise Price for each Option shall be as determined by the Committee and shall be specified in the Award Agreement. The Exercise Price shall be: not less than one hundred percent (100%) of the Fair Market Value of a Share on the Grant Date; *provided, however*, that the foregoing minimum Exercise Price shall not apply to Substitute Awards.

(b) ***Number of Shares.*** Each Award Agreement shall state that it covers a specified number of Shares, as determined by the Committee.

(c) ***Term.*** Each Option shall terminate as set forth in the Award Agreement and all rights to purchase Shares will expire at such time as the Committee shall determine; *provided, however*, no Option shall be exercisable later than the seventh (7th) anniversary of the Grant Date.

(d) ***Restrictions on Exercise.*** The Award Agreement shall set forth any installment or other restrictions on exercise of the Option during the term of the Option. Each Option shall become exercisable and vest over such period of time, or upon such events, as determined by the Committee. An Award Agreement may provide that the period of time over which an Option other than an Incentive Stock Option may be exercised shall be automatically extended if on the scheduled expiration date of the Option the Participant s exercise of such Option would violate applicable securities laws or the Company s insider trading policy as in effect from time to time; *provided, however*, that during such extended exercise period the Option may only be exercised to the extent the Option was exercisable in accordance with its terms immediately prior to such scheduled expiration date and the extended exercise period shall end not later than 30 days after the exercise of such Option would first no longer violate such laws or policy (the ***Extended Exercise Period***). The Award Agreement may also provide for the automatic exercise of any such Option in which the Fair Market Value of a Share (as determined on the first day of the Extended Exercise Period in which the exercise would no longer violate such laws or policy) exceeds the Exercise Price by delivery to the Participant Shares equal to such excess amount, less any required tax withholding.

6.3 ***Exercise of Option.***

(a) ***Manner of Exercise.*** An Option granted hereunder shall be exercised, in whole or in part, by providing written or electronic notice, on a form provided by the Company, to an employee as designated by the Company, or by complying with any alternative exercise procedures that may be authorized by the Committee, specifying the number of Shares to be purchased and accompanied by full payment of the Exercise Price for the Shares and satisfaction of any tax withholding requirements.

(b) ***Payment.*** A condition to the issuance or other delivery of Shares as to which an Option is exercised shall be the payment of the Exercise Price and satisfaction of any tax withholding requirements. The Exercise Price of an Option shall be payable to the Company in full, in any method permitted under the Award Agreement, including: (i) in cash or in cash equivalents acceptable to the Company; (ii) by tendering (either by actual delivery or by attestation) unrestricted Shares already owned by the Participant on the date of surrender, subject to such terms, conditions and limitations as the Company may determine, to the extent the Shares have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Shares as to which such Option shall be exercised, provided that, in the case of an Incentive Stock Option, the right to make payment in the form of

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already owned Shares may be authorized only at the time of grant, (iii) any other method approved or accepted by the Committee in its sole discretion, including, but not limited to (A) a cashless (broker-assisted) exercise that complies with all applicable laws or (B) withholding of Shares otherwise deliverable to the Participant pursuant to the Option having an aggregate Fair Market Value on the date of exercise equal to the Exercise Price or (iv) any combination of the foregoing. Unless otherwise determined by the Committee, all payments under all of the methods indicated above shall be paid in United States dollars.

(c) ***Delivery of Shares.*** Promptly after the exercise of an Option by a Participant and the payment in full of the Exercise Price, such Participant shall be entitled to the issuance of certificates evidencing such Participant s ownership of the Shares purchased upon exercise of the Option. Notwithstanding any other provision of this Plan to the contrary, the Company may elect to satisfy any requirement under this Plan for the delivery of certificates through the use of electronic or other forms of book-entry.

6.4 ***Termination of Service.*** Each Award Agreement shall set forth the extent to which the Participant shall have the right to exercise the Option following termination of the Participant s Service. Such provisions shall be determined in the sole discretion of the Committee, need not be uniform among all Options issued pursuant to the Plan, and may reflect distinctions based on the reasons for termination of Service.

6.5 ***Limitations on Incentive Stock Options.***

(a) ***General; Initial Exercise.*** Any Incentive Stock Option granted under the Plan shall contain such terms and conditions, consistent with the Plan, as the Committee may determine necessary to qualify such Option as an Incentive Stock Option. Any Incentive Stock Option granted under the Plan may be modified by the Committee to disqualify such Option from treatment as an Incentive Stock Option under Section 422 of the Code. The aggregate Fair Market Value of the Shares with respect to which Incentive Stock Options are exercisable for the first time by a Participant in any calendar year, under the Plan or otherwise, shall not exceed $100,000. For this purpose, the Fair Market Value of the Shares shall be determined as of the Grant Date and each Incentive Stock Option shall be taken into account in the order granted.

(b) ***Ten Percent Stockholders.*** An Incentive Stock Option granted to a Participant who is the holder of record of more than ten percent (10%) of the combined voting power of all classes of stock of the Company shall have an Exercise Price at least equal to one hundred and ten percent (110%) of the Fair Market Value of a Share on the Grant Date of the Option and the term of the Option shall not exceed five (5) years.

(c) ***Notification of Disqualifying Disposition.*** If any Participant shall make any disposition of Shares acquired pursuant to the exercise of an Incentive Stock Option under the circumstances described in Section 421(b) of the Code (relating to certain disqualifying dispositions), the Participant shall notify the Company of such disposition within ten (10) days thereof.

6.6 ***Transferability.*** Except as provided in Section 6.7, during the lifetime of a Participant, only the Participant (or, in the event of legal incapacity or incompetency, the Participant s guardian or legal representative) may exercise an Option. Except as provided in Section 6.7, no Option shall be assignable or transferable by the Participant to whom it is granted, other than by will or the laws

of descent and distribution.

6.7 ***Family Transfers.*** If authorized in the applicable Award Agreement, a Participant may transfer, not for value, all or part of an Option to any Family Member. For the purpose of this Section 6.7, a not for value transfer is a transfer which is (a) a gift, or (b) unless applicable law does not permit such transfers, a transfer to an entity in which more than fifty percent (50%) of the voting interests are owned by Family Members (or the Participant) in exchange for an interest in that entity. Following a transfer under this Section 6.7, any such Option shall continue to be subject to the same terms and conditions as were applicable immediately prior to transfer. Subsequent transfers of transferred Options are prohibited except to Family Members of the original Participant in accordance with this Section 6.7 or by will or the laws of descent and distribution. The events of termination of Service under an Option shall continue to be applied with respect to the original Participant, following which the Option shall be exercisable by the transferee only to the extent, and for the periods specified in the applicable Award Agreement.

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6.8 ***Rights of Holders of Options.*** An individual holding or exercising an Option shall have none of the rights of a stockholder of the Company (for example, the right to receive cash or dividend payments or distributions attributable to the subject Shares or to direct the voting of the Shares) until the Shares covered thereby are fully paid and issued to such individual. Except as provided in Section 13, no adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date of such issuance.

7. STOCK APPRECIATION RIGHTS

7.1 ***Grant of Stock Appreciation Rights.*** Subject to the provisions of this Plan, Stock Appreciation Rights may be granted to Participants at any time and from time to time as shall be determined by the Committee. The Committee may grant freestanding Stock Appreciation Rights, Stock Appreciation Rights that are granted in tandem with an Option, or any combination thereof.

7.2 ***Award Agreement.*** Each Stock Appreciation Right will be evidenced by an Award Agreement that shall specify the Grant Price, the number of Shares covered by the Stock Appreciation Right, the maximum duration of the Stock Appreciation Right, the conditions upon which the Stock Appreciation Right shall become vested and exercisable and such other provisions as the Committee shall determine, consistent with the terms of the Plan.

(a) ***Grant Price.*** The per Share exercise price (***Grant Price***) for each Stock Appreciation Right shall be determined by the Committee and shall be specified in the Award Agreement. Other than with respect to Substitute Awards, the Grant Price shall not be less than one hundred percent (100%) of the Fair Market Value of a Share on the Grant Date of the Stock Appreciation Right.

(b) ***Number of Shares.*** Each Award Agreement shall state that it covers a specified number of Shares, as determined by the Committee.

(c) ***Term.*** Each Stock Appreciation Right shall terminate and all rights with respect to the Stock Appreciation Right shall expire at such time as the Committee shall determine; *provided, however*, no Stock Appreciation Rights shall be exercisable later than the seventh (7th) anniversary of the Grant Date.

(d) ***Restrictions on Exercise.*** The Award Agreement shall set forth any installment or other restrictions on exercise of the Stock Appreciation Right during its term. Each Stock Appreciation Right shall become exercisable and vest over such period of time, or upon such events, as determined by the Committee (including based on achievement of Performance Goals or future service requirements). An Award Agreement may provide that the period of time over which a Stock Appreciation Right may be exercised shall be automatically extended if on the scheduled expiration date of the Stock Appreciation Right the Participant s exercise of such right would violate applicable securities laws or the Company s insider trading policy as in effect from time to time; *provided, however*, that during such extended exercise period the Stock Appreciation Right may only be exercised to the extent the right was exercisable in accordance with its terms immediately prior to such scheduled expiration date and the extended exercise period shall end not later than 30 days after the exercise of such Stock Appreciation Right would first no longer violate such laws. The Award Agreement may also provide for the automatic exercise of any such Stock Appreciation Right in which the Fair Market Value of a Share (as determined on the first day of the Extended Exercise Period in which the exercise would no longer violate

such laws or policy) exceeds the Grant Price by delivery to the Participant Shares equal to such excess amount, less any required tax withholding.

7.3 ***Exercise of Stock Appreciation Right.*** A Participant desiring to exercise a Stock Appreciation Right shall give written or electronic notice, on a form provided by the Company, of such exercise to the Company with the information the Company deems reasonably necessary to exercise the Stock Appreciation Right. If a Stock Appreciation Right is issued in tandem with an Option, except as may otherwise be provided by the Committee, the Stock Appreciation Right shall be exercisable during the period that its related Option is exercisable. Upon the exercise of a Stock Appreciation Right, a Participant shall be entitled to receive payment from the Company in an amount determined by multiplying:

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(a) The excess of the Fair Market Value of a Share on the date of exercise over the Grant Price; by

(b) The number of Shares with respect to which the Stock Appreciation Right is exercised.

Notwithstanding the foregoing provisions of this Section 7.3 to the contrary, the Committee may establish and set forth in the Award Agreement a maximum amount per Share that will be payable upon the exercise of a Stock Appreciation Right. At the discretion of the Committee, the payment upon exercise may be in cash, Shares, or any combination thereof, or in any other manner approved by the Committee in its sole discretion. The Committee s determination as to the form of settlement shall be set forth in the Award Agreement.

7.4 ***Effect of Exercise.*** If a Stock Appreciation Right is issued in tandem with an Option, the exercise of the Stock Appreciation Right or the related Option will result in an equal reduction in the number of corresponding Shares subject to the Option or Stock Appreciation Right that were granted in tandem with such Stock Appreciation Right and Option.

7.5 ***Termination of Service.*** Each Award Agreement shall set forth the extent to which the Participant shall have the right to exercise the Stock Appreciation Right following termination of the Participant s Service. Such provisions shall be determined in the sole discretion of the Committee, need not be uniform among all Stock Appreciation Rights issued pursuant to the Plan, and may reflect distinctions based on the reasons for termination of Service. Any Stock Appreciation Right issued in tandem with an Option shall be exercisable following termination of the Participant s Service to the same extent that its related Option is exercisable following the Participant s termination of Service.

7.6 ***Transferability.*** A Stock Appreciation Right shall only be transferable upon the same terms and conditions with respect to transferability as are specified in Sections 6.6 and 6.7 with respect to Options.

7.7 ***Rights of Holders of Stock Appreciation Rights.*** An individual holding or exercising a Stock Appreciation Right shall have none of the rights of a stockholder of the Company (for example, the right to receive cash or dividend payments or distributions attributable to the subject Shares or to direct the voting of the Shares) until the Shares covered thereby are fully paid and issued to such individual. Except as provided in Section 13, no adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date of such issuance

8. RESTRICTED STOCK AND RESTRICTED STOCK UNITS

8.1 ***Grant of Restricted Stock or Restricted Stock Units.*** Subject to the provisions of this Plan, the Committee at any time and from time to time, may grant Shares of Restricted Stock or Restricted Stock Units to Participants in such amounts as the Committee shall determine.

8.2 ***Award Agreement.*** Each grant of Restricted Stock or Restricted Stock Units will be evidenced by an Award Agreement that shall specify the Restriction Period, the number of Shares of Restricted Stock or the number of Restricted Stock Units granted and such other provisions as the Committee shall determine.

8.3 ***Restrictions on Transfer.*** Except as provided in this Plan or an Award Agreement, the Shares of Restricted Stock and Restricted Stock Units may not be sold, transferred, pledged, assigned or otherwise alienated or hypothecated until the end of the Restriction Period established by the Committee and specified in the Award Agreement (and in the case of Restricted Stock Units until the date of delivery or other payment), or upon earlier satisfaction or any other conditions, as specified by the Committee, in its sole discretion. All rights with respect to the Restricted Stock or Restricted Stock Units granted to a Participant shall be available during his or her lifetime only to such Participant, except as otherwise provided in an Award Agreement or at any time by the Committee.

8.4 ***Forfeiture; Other Restrictions.*** The Committee may impose such other conditions and restrictions on any shares of Restricted Stock or Restricted Stock Units as it may deem advisable including a requirement that the Participant pay a specified amount to purchase each Share of Restricted Stock, restrictions

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based upon the achievement of specific Performance Goals, time-based restrictions on vesting following the attainment of the Performance Goals, time-based restrictions or restrictions under applicable laws or under the requirements of any stock exchange or market upon which Shares are then listed or traded, or holding requirements or sale restrictions placed on the Shares by the Company upon vesting of such Restricted Stock or Restricted Stock Units.

8.5 ***Restricted Stock Units.*** A holder of Restricted Stock Units shall have no rights other than those of a general creditor of the Company. Restricted Stock Units represent an unfunded and unsecured obligation of the Company, subject to the terms and conditions of the applicable Award Agreement. Restricted Stock Units may be settled in cash or Shares, or a combination, as determined by the Committee and set forth in the Award Agreement.

8.6 ***Termination of Service.*** Unless otherwise provided by the Committee in the applicable Award Agreement, upon the termination of a Participant s Service with the Company or an Affiliate, any Shares of Restricted Stock or Restricted Stock Units held by such Participant that have not vested, or with respect to which all applicable restrictions and conditions have not lapsed, shall immediately be deemed forfeited, and the Participant shall have no further rights with respect to such Awards, including but not limited to any right to vote Restricted Stock or any right to receive dividends or Dividend Equivalents with respect to Restricted Stock or Restricted Stock Units.

8.7 ***Stockholder Privileges.*** Unless otherwise determined by the Committee and set forth in the Award Agreement:

(a) A Participant holding Shares of Restricted Stock shall generally have the rights of a stockholder to vote the Shares of Restricted Stock during the Restriction Period. The Committee may provide in an Award Agreement that the holder of such Restricted Stock shall be entitled to receive cash dividends actually paid with respect to the Restricted Stock in accordance with and subject to Section 11.

(b) A Participant holding Restricted Stock Units shall have no rights of a stockholder of the Company with respect to the Restricted Stock Units. The Committee may provide in an Award Agreement that the holder of such Restricted Stock Units shall be entitled to receive Dividend Equivalents in accordance with and subject to Section 11.

9. QUALIFIED PERFORMANCE BASED COMPENSATION

9.1 ***Grant or Vesting of Award Subject to Objective Performance Goals.*** The Committee may, in its discretion, condition the grant, vesting, or payment of an Award on the attainment of one or more pre-established objective Performance Goals, in accordance with the qualified performance based compensation exception to Section 162(m) of the Code. Subject to the terms of the Plan, the Committee may grant Performance Shares and/or Performance Units in such amounts and upon such terms as the Committee shall determine. A Performance Share or Performance Unit entitles the Participant to receive Shares, cash or a combination, upon the attainment of performance goals and/or satisfaction of other terms and conditions determined by the Committee when the Award is granted and set forth in the Award Agreement.

9.2 ***Establishment of Performance Goals.*** All Performance Goals established pursuant to this Section 9.2 shall be objective and shall be established by the Committee within 90 days after the beginning of the period of service to which the Performance Goal relates (and in no event after passage of more than 25% of the period to which the Performance Goal relates). Performance Goals means one or more goals determined by the Committee, in its discretion, with respect to an Award for a Performance Period (the ***Performance Goals***). The Performance Goals may provide for a targeted level or levels of performance for a Performance Period based on one or more of the following performance measures: (a) rate of return on exploration capital; (b) stock performance measures (including relative stock price performance); (c) revenue; (d) earnings before interest, taxes, depreciation and amortization (***EBITDA***); (e) funds from operations; (f) funds from operations per share; (g) operating income; (h) pre- or after-tax income; (i) production levels; (j) proved, probable and/or possible reserve levels and/or additions; (k) discounted present value of proved, probable and/or possible reserves; (l) cash available for distribution; (m) cash available for distribution per share; (n) net earnings; (o) earnings per share; (p) return on investment; (q) return on equity; (r) return on assets; (s) share price performance; (t) improvements in the

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Company s attainment of expense levels; (u) implementation or completion of critical projects; (v) return on capital employed; (w) debt, credit or other leverage measures or ratios; (x) capital expenditures; (y) finding and development costs; (z) property or mineral leasehold acquisitions or disposition; (aa) improvement in cash flow, either before or after tax; and any combination or derivation of any of the foregoing. Any Performance Goal based on one or more of the foregoing performance measures may be expressed in absolute amounts, on a per share basis, as a growth rate or change from preceding periods, or as a comparison to the performance of specified companies or other external measures, and may be related to one or any combination of corporate, group, unit, division, Affiliate or individual performance.

The performance measures may, at the discretion of the Committee, be based on pro forma numbers and may, as the Committee specifies, either include or exclude the effect of payment of the incentives payable under this Plan and any other incentive or bonus plans of the Company. The Performance Goals may differ from Participant to Participant. The Committee may, subject to the requirements of Section 162(m) of the Code for Awards intended to be performance-based, provide that the attainment of the Performance Goal shall be measured by appropriately adjusting the evaluation of the attainment of the performance goal to exclude (i) any extraordinary or non-recurring items as described in the applicable accounting rules, (ii) the effect of any changes in accounting principles affecting the reported results of the Company or a business unit, or (iii) any other adjustment consistent with the requirements of Section 162(m) of the Code that is pre-specified by the Committee. The Performance Goals applicable to a particular Award shall be set forth by the Committee in the Award Agreement.

9.3 ***Value of Performance Shares and Performance Units.*** Each Performance Share shall have an initial value equal to the Fair Market Value of a Share on the Grant Date. Each Performance Unit shall have an initial value representing the equivalent of a Share. The Committee shall set Performance Goals in its discretion which, depending upon the extent to which the Performance Goals are achieved, will determine the number and/or value of Performance Shares or Performance Units that will be paid or delivered to the Participant.

9.4 ***Achievement of Performance Goals; Earning of Awards.*** Subject to the terms of the Plan, after the applicable Performance Period has been completed, the Committee shall certify prior to the grant, vesting, or payment of any Award that the applicable Performance Goals have been satisfied. Except as may otherwise be provided herein or as may otherwise be contained in the Award Agreement (which provisions shall comply with Section 162(m) of the Code, for Awards intended to comply with such provision), in the event that the Performance Goals are not satisfied, the Award shall not be granted or become vested or payable, as applicable except as otherwise determined by the Committee.

9.5 ***Payment of Performance Awards.*** The time and form of payment of Performance Awards earned by the Participant shall be as determined by the Committee and be set forth in the Award Agreement. Subject to the terms of the Plan, the Committee, in its sole discretion, may pay, deliver or remove restrictions from earned Performance Shares and Performance Units following the Committee s determination of actual performance against the Performance Goals and/or other terms and conditions established by the Committee. Any such payment, delivery or removal of restrictions on Shares or cash may be made subject to any restrictions deemed appropriate by the Committee. The determination of the Committee with respect to the form of payment of such Awards shall be set forth in the Award Agreement pertaining to the grant of the Award. The Committee may provide in an Award Agreement for the payment of Dividend Equivalents in accordance with and subject to Section 11.

9.6 ***Termination of Service.*** Each Award Agreement shall set forth the extent to which the Participant shall have the right to retain Performance Shares or Performance Unit Awards following termination of Service. Such provisions shall be determined in the sole discretion of the Committee and need not be uniform among all Awards of Performance Shares or Performance Units and may reflect distinctions based upon the reason for termination.

9.7 ***Transferability.*** Except as otherwise provided in an Award Agreement, Performance Awards may not be sold, transferred, pledged, assigned or otherwise alienated or hypothecated, other than by the laws of descent and distribution.

9.8 ***Stockholder Rights.*** A Participant receiving a Performance Share or a Performance Unit Award shall have the rights as a stockholder to vote only such Shares actually issued to the Participant. The Participant s

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right, if any, to dividends or Dividend Equivalents with respect to a Performance Share or a Performance Unit Award will be determined in accordance with Section 11 and set forth in the Award Agreement.

10. OTHER STOCK-BASED AWARDS

From time to time during the duration of this Plan, the Committee may, in its sole discretion, adopt one or more incentive compensation arrangements for Participants pursuant to which the Participants may (a) acquire Shares under the Plan, whether by purchase, outright grant, or otherwise, or (b) receive an Award, whether payable in cash or in Shares, the value of which is determined, based in whole or in part, on the value of Shares. Any such arrangements shall be subject to the general provisions of this Plan and all cash payments or Shares issued pursuant to such arrangements shall be made under this Plan.

11. DIVIDENDS AND DIVIDEND EQUIVALENTS

Subject to the terms of the Plan and any applicable Award Agreement, a Participant shall, if so determined by the Committee, be entitled to receive, currently, or on a deferred basis, dividends or Dividend Equivalents, with respect to the Shares covered by the Award. Holders of an Option or Stock Appreciation Right shall not be entitled to receive cash dividend payments or Dividend Equivalents on shares covered by such Awards, except as provided in Section 13. The Committee may provide that any dividends paid on Shares subject to an Award must be reinvested in additional Shares, which may or may not be subject to the same vesting conditions and restrictions applicable to the Award; *provided, however*, in no event may dividends and Dividend Equivalents be paid on Awards that vest or pay based on the achievement of Performance Goals until and to the extent the Award is earned, although the amounts can be accumulated. Notwithstanding the award of Dividend Equivalents or dividends, a Participant shall not be entitled to receive an extraordinary dividend or distribution unless the Committee shall have expressly authorized such receipt. All distributions, if any, received by a Participant with respect to an Award as a result of any split, stock dividend, combination of Shares, or other similar transaction shall be subject to the restrictions applicable to the original Award.

12. TAX WITHHOLDING

The Company (or any Affiliate) shall have the right to deduct from payments of any kind otherwise due to a Participant any federal, state, or local taxes, domestic or foreign, of any kind required by law with respect to the vesting of or other lapse of restrictions applicable to Awards or upon the issuance of any Shares or payment of any kind upon the exercise of any Options or Stock Appreciation Rights. At the time of such vesting, lapse, payment, or exercise, the Participant shall pay to the Company or Affiliate any amount that the Company or Affiliate may reasonably determine to be necessary to satisfy such withholding obligation.

In accordance with any procedures that may be determined by the Committee, the Participant may elect to have Shares withheld or to deliver Shares to satisfy the minimum statutory withholding rates for federal, state and local income taxes and employment taxes that are applicable to supplemental taxable income (***Minimum Statutory Withholding***) obligations. The Participant may elect to satisfy Minimum Statutory Withholding obligations, in whole or in part, (a) by causing the Company or the Affiliate to withhold Shares otherwise issuable to the Participant or (b) by delivering to the Company or the Affiliate Shares already owned by the Participant (for any period as may be required by the Company). The Shares so delivered or withheld shall have an aggregate Fair

Market Value not in excess of such withholding obligations. The Fair Market Value of the Shares used to satisfy such withholding obligation shall be determined as of the date that the amount of tax to be withheld is to be determined. A Participant who has made an election pursuant to this Section 12 may satisfy his or her withholding obligation only with Shares that are not subject to any repurchase, forfeiture, unfulfilled vesting, or other similar requirements.

13. EFFECT OF CHANGES IN CAPITALIZATION

13.1 ***Changes in Stock.*** The number of Shares for which Awards may be made under the Plan and the individual Award share and dollar limits in Section 4.2 shall be proportionately increased or decreased for any increase or decrease in the number of Shares on account of any recapitalization, reclassification, split, reverse split, combination, exchange, dividend or other distribution payable in Shares, or for any other increase or decrease in

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such Shares effected without receipt of consideration by the Company occurring after the Effective Date (any such event hereafter referred to as a ***Corporate Event***). In addition, subject to the exception set forth in the second sentence of Section 13.4, the number and kind of shares for which Awards are outstanding shall be proportionately increased or decreased for any increase or decrease in the number of Shares on account of any Corporate Event. Any such adjustment in outstanding Options or Stock Appreciation Rights shall not increase the aggregate Exercise Price or Grant Price payable with respect to shares that are subject to the unexercised portion of an outstanding Option or Stock Appreciation Right, as applicable, and the adjustment shall comply with the requirements under Section 409A of the Code. The conversion of any convertible securities of the Company shall not be treated as an increase in shares effected without receipt of consideration. Notwithstanding the foregoing, in the event of any distribution to the Company s stockholders of securities of any other entity or other assets (including an extraordinary cash dividend but excluding a non-extraordinary dividend payable in cash or in stock of the Company) without receipt of consideration by the Company, the Company shall proportionately adjust (a) the number and kind of shares subject to outstanding Awards and/or (b) the Exercise Price per share of outstanding Options and the Grant Price of outstanding Stock Appreciation Rights to reflect such distribution. Notwithstanding the foregoing, upon the occurrence of any event or transaction contemplated in this Section 13.1, any changes contemplated herein shall be modified to the minimum extent necessary, in the sole discretion of the Committee, to avoid any tax that may otherwise become due under Section 409A of the Code.

13.2 ***Change in Control.***

(a) ***Stock Options and SARs.*** Upon the occurrence of a Change in Control, the unvested portion, if any, of outstanding Options and SARs shall become immediately and automatically vested. In addition, the Company or successor or purchaser, as the case may be, may make adequate provision for the assumption of the outstanding Options or SARs or the substitution of new options or SARs for the outstanding Options or SARs on terms comparable to the outstanding Options and SARs. The Committee may provide that any Options or SARs that are outstanding at the time the consummation of the Change in Control shall expire at the time of the closing so long as the Participants are provided with at least 45 days advance notice of expiration. The Committee need not take the same action with respect to all outstanding Options or SARs.

(b) ***Restricted Stock and Restricted Stock Units.*** Upon the occurrence of a Change in Control, the unvested portion of a Restricted Stock Award shall become immediately and automatically vested and payable; the unvested portion of a Restricted Stock Unit Award shall become immediately and automatically vested and payable at the time provided in Section 13.2(d).

(c) ***Performance Shares and Performance Units.*** Upon the occurrence of a Change in Control, the Performance Period for each outstanding unvested Performance Share Award and Performance Unit Award shall be deemed to be completed immediately prior to the Change in Control. The Committee shall certify the extent to which the applicable Performance Goals have been satisfied based on the results achieved during the actual Performance Period, including any adjustment necessary to take into account the actual date of the Change in Control. Notwithstanding the foregoing, for Performance Awards intended as qualifying performance-based awards, any accelerated vesting or payout shall be subject to such adjustment as required by Section 162(m) of the Code.

(d) ***Section 409A and Change in Control.*** If an Award subject to Section 13.2(b) or 13.2(c) is exempt from the requirements of Section 409A of the Code, it shall be paid within 30 days following the termination or resignation. If an Award is subject to the requirements of Section 409A, then it shall be paid within the 30-day period following the six month anniversary of the Participant s separation from service (within the meaning of Section 409A of the Code). If a Participant s termination or resignation is not a separation from service or the payment event is not a Section 409A distribution event, subject to the requirements of Section 409A of the Code, the Award shall be paid as of the earlier of the time specified in the Award Agreement or one day after the six month

anniversary of the date the Participant has a separation from service following the Change in Control.

The Committee need not take the same action with respect to all outstanding Awards or to all outstanding Awards of the same type.

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13.3 ***Reorganization in Which the Company Is the Surviving Entity and in Which No Change in Control Occurs.*** Subject to the exception set forth in the second sentence of Section 13.4, if the Company shall be the surviving entity in any reorganization, merger, or consolidation of the Company with one or more other entities and in which no Change in Control occurs, any Award theretofore made pursuant to the Plan shall pertain to and apply solely to the securities to which a holder of the number of securities subject to such Award would have been entitled immediately following such reorganization, merger, or consolidation, and, in the case of Options and Stock Appreciation Rights, with a corresponding proportionate adjustment of the Exercise Price or Grant Price per share so that the aggregate Exercise Price or Grant Price thereafter shall be the same as the aggregate Exercise Price or Grant Price of the Shares remaining subject to the Option or Stock Appreciation Right immediately prior to such reorganization, merger, or consolidation. Subject to any contrary language in an Award Agreement evidencing any other Award, any restrictions applicable to such Award shall apply as well to any replacement Shares received by the Participant as a result of the reorganization, merger or consolidation. Notwithstanding the foregoing, upon the occurrence of any event or transaction contemplated in this Section 13.3, any changes contemplated herein shall be modified to the minimum extent necessary, in the sole discretion of the Committee, to avoid any tax that may otherwise become due under Section 409A of the Code.

13.4 ***Adjustment.*** Adjustments under Section 13 related to Shares or securities of the Company shall be made by the Committee, whose determination in that respect shall be final, binding and conclusive. The Committee may provide in the Award Agreements at the time of Award, or pursuant to any other arrangement or agreement at any time with the consent of the Participant, for different provisions to apply to an Award in place of those described in Sections 13.1, 13.2 and 13.3. Notwithstanding the foregoing, any different provisions or changes to provisions contemplated herein shall be modified to the minimum extent necessary, in the sole discretion of the Committee, to avoid any tax that may otherwise become due under Section 409A of the Code.

13.5 ***No Limitations on the Company.*** The making of Awards pursuant to the Plan shall not affect or limit in any way the right or power of the Company to make adjustments, reclassifications, reorganizations, or changes of its capital or business structure or to merge, consolidate, dissolve, or liquidate, or to sell or transfer all or any part of its business or assets.

14. REQUIREMENTS OF LAW

14.1 ***General.*** The Company shall not be required to issue or sell any Shares under any Award if the issuance or sale of such Shares would constitute a violation by the Participant, any other individual exercising an Option or Stock Appreciation Right, or the Company of any provisions of any law or regulation of any governmental authority, including without limitation any federal or state securities laws or regulations. If at any time the Company shall determine, in its discretion, that the listing, registration or qualification of any Shares subject to an Award upon any securities exchange or under any governmental regulatory body is necessary or desirable as a condition of, or in connection with, the issuance or purchase of Shares hereunder, no Shares may be issued or sold to the Participant or any other individual exercising an Option or Stock Appreciation Right pursuant to such Award unless such listing, registration, qualification, consent or approval shall have been effected or obtained free of any conditions not acceptable to the Company, and any delay caused thereby shall in no way affect the date of termination of the Award. Specifically, in connection with the Securities Act, upon the exercise of any Option or the delivery of any Shares underlying an Award, unless a registration statement under the Securities Act is in effect with respect to the Shares covered by such Award, the Company shall not be required to issue or sell such Shares unless the Committee has received evidence satisfactory to it that the Participant or any other individual exercising an Option may acquire such Shares pursuant to an exemption from registration under the Securities Act. Any determination in this connection by the Committee shall be final, binding, and conclusive. The Company may, but shall in no event be obligated to, register any securities covered hereby pursuant to the Securities Act. The Company shall not be obligated to take any affirmative action in order to cause the exercise of an Option or the issuance or sale of Shares pursuant to the Plan to comply with any law or regulation of any governmental authority. As to any jurisdiction that expressly imposes the requirement that an Option shall not be exercisable until the Shares covered by such Option are registered or are exempt from registration, the exercise of such Option (under circumstances in which the laws of such jurisdiction apply) shall be deemed conditioned upon the

effectiveness of such registration or the availability of such an exemption.

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14.2 ***Rule 16b-3.*** During any time when the Company has a class of equity security registered under Section 12 of the Exchange Act, it is the intent of the Company that Awards pursuant to the Plan and the exercise of Options granted hereunder will qualify for the exemption provided by Rule 16b-3 under the Exchange Act. To the extent that any provision of the Plan or action by the Committee does not comply with the requirements of Rule 16b-3, it shall be deemed inoperative to the extent permitted by law and deemed advisable by the Committee, and shall not affect the validity of the Plan. In the event that Rule 16b-3 is revised or replaced, the Committee may exercise its discretion to modify this Plan in any respect necessary to satisfy the requirements of, or to take advantage of any features of, the revised exemption or its replacement.

15. GENERAL PROVISIONS

15.1 ***Disclaimer of Rights.*** No provision in the Plan, in any Award or in any Award Agreement shall be construed to confer upon any individual the right to remain in the employ or service of the Company or any Affiliate, or to interfere in any way with any contractual or other right or authority of the Company either to increase or decrease the compensation or other payments to any individual at any time, or to terminate any employment or other relationship between any individual and the Company or any Affiliate. The obligation of the Company to pay any benefits pursuant to this Plan shall be interpreted as a contractual obligation to pay only those amounts described herein, in the manner and under the conditions prescribed herein. The Plan shall in no way be interpreted to require the Company to transfer any amounts to a third party trustee or otherwise hold any amounts in trust or escrow for payment to any participant or beneficiary under the terms of the Plan.

15.2 ***Nontransferability of Awards.*** Except as provided in Sections 6.6, 6.7 and 7.6 or otherwise at the time of grant or thereafter, no right or interest of any Participant in an Award granted pursuant to the Plan shall be assignable or transferable during the lifetime of the Participant, either voluntarily or involuntarily, or subject to any lien, directly or indirectly, by operation of law, or otherwise, including execution, levy, garnishment, attachment, pledge or bankruptcy. In the event of a Participant s death, a Participant s rights and interests in Awards shall only be transferable by will or the laws of descent and distribution to the extent provided under this Plan, and payment of any amounts due thereunder shall be made to, and exercise of any Option or Stock Appreciation Right may be made by, the Participant s legal representatives, heirs or legatees. If in the opinion of the Committee a person entitled to payments or to exercise rights with respect to the Plan is unable to care for his or her affairs because of mental condition, physical condition or age, payment due such person may be made to, and such rights shall be exercised by, such person s guardian, conservator or other legal personal representative upon furnishing the Committee with evidence satisfactory to the Committee of such status.

15.3 ***Changes in Accounting or Tax Rules.*** Except as provided otherwise at the time an Award is granted, notwithstanding any other provision of the Plan to the contrary, if, during the term of the Plan, any changes in the financial or tax accounting rules applicable to any Award shall occur which, in the sole judgment of the Committee, may have a material adverse effect on the reported earnings, assets or liabilities of the Company, the Committee shall have the right and power to modify as necessary, any then outstanding and unexercised Options, Stock Appreciation Rights and other outstanding Awards as to which the applicable services or other restrictions have not been satisfied.

15.4 ***Nonexclusivity of the Plan.*** The adoption of the Plan shall not be construed as creating any limitations upon the right and authority of the Committee to adopt such other incentive compensation arrangements (which arrangements may be applicable either generally to a class or classes of individuals or specifically to a particular individual or particular individuals) as the Committee in its discretion determines desirable.

15.5 ***Captions.*** The use of captions in this Plan or any Award Agreement is for the convenience of reference only and shall not affect the meaning of any provision of the Plan or such Award Agreement.

15.6 ***Other Award Agreement Provisions.*** Each Award Agreement may contain such other terms and conditions not inconsistent with the Plan as may be determined by the Committee, in its sole discretion.

15.7 ***Other Employee Benefits.*** The amount of any compensation deemed to be received by a Participant as a result of the exercise of an Option or Stock Appreciation Right, the sale of Shares received upon such exercise, the vesting of any Restricted Stock, receipt of Performance Shares, distributions with respect to

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Restricted Stock Units or Performance Units, or Other Stock-Based Awards shall not constitute earnings or compensation with respect to which any other employee benefits of such employee are determined, including without limitation, benefits under any pension, profit sharing, 401(k), life insurance or salary continuation plan, except as may be specifically be provided otherwise under the terms of such other employee benefit plan or program.

15.8 ***Severability.*** If any provision of the Plan or any Award Agreement shall be determined to be illegal or unenforceable by any court of law in any jurisdiction, the remaining provisions hereof and thereof shall be severable and enforceable in accordance with their terms, and all provisions shall remain enforceable in any other jurisdiction.

15.9 ***Governing Law.*** The validity and construction of this Plan and the Award Agreements shall be construed in accordance with and governed by the laws of the State of Delaware other than any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Plan and the Award Agreements to the substantive laws of any other jurisdiction.

15.10 ***Section 409A.*** Notwithstanding anything in this Plan to the contrary, the Plan and Awards made under the Plan are intended to comply with the requirements imposed by Section 409A of the Code. If any Plan provision or Award under the Plan would result in the imposition of an additional tax under Section 409A of the Code, the Company and the Participant intend that the Plan provision or Award will be reformed to avoid imposition, to the extent possible, of the applicable tax and no action taken to comply with Section 409A of the Code shall be deemed to adversely affect the Participant s rights to an Award. The Participant further agrees that the Committee, in the exercise of its sole discretion and without the consent of the Participant, may amend or modify an Award in any manner and delay the payment of any amounts payable pursuant to an Award to the minimum extent necessary to meet the requirements of Section 409A of the Code as the Committee deems appropriate or desirable. Subject to any other restrictions or limitations contained herein, in the event that a specified employee (as defined under Section 409A of the Code) becomes entitled to a payment under the Plan that is subject to Section 409A of the Code on account of a separation of service (as defined under Section 409A of the Code), such payment shall not occur until the date that is six months plus one day from the date of such separation from service. Any amount that is otherwise payable within the six (6) month period described herein will be aggregated and paid in a lump sum amount without interest.

16. AMENDMENT, MODIFICATION AND TERMINATION

16.1 ***Amendment, Modification, and Termination.*** Subject to Sections 3.2, 15.10 and 16.2, the Board may at any time terminate, and from time to time may amend or modify the Plan; *provided, however*, that no amendment or modification may become effective without approval of the stockholders of the Company if stockholder approval is required to enable the Plan to satisfy any applicable statutory or regulatory requirements, or if the Company, on the advice of counsel, determines that stockholder approval is otherwise necessary or desirable.

16.2 ***Awards Previously Granted.*** Except as otherwise may be required under Section 15.10, notwithstanding Section 16.1 to the contrary, no amendment, modification or termination of the Plan or any Award Agreement shall adversely affect in any material way any previously granted Award, without the written consent of the Participant holding such Award.

17. STOCKHOLDER APPROVAL; EFFECTIVE DATE OF PLAN

The initial effective date of the Plan is May 15, 2014, subject to the approval of the Company s stockholders at the 2014 Annual Meeting of Stockholders on that date. The Plan was approved by the Board on February 25, 2014, subject to the approval of the Company s stockholders. No amount shall be paid to any Participant under the Plan unless such stockholder approval has been obtained within the period ending 12 months after the date the Plan was adopted by the Board.

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18. DURATION

Unless sooner terminated by the Board, this Plan shall terminate automatically on May 15, 2024, which is 10 years from the Effective Date. After the Plan terminates, no Awards may be granted. Awards outstanding at the time the Plan terminates shall remain outstanding in accordance with the terms and conditions of the Plan and the Award Agreement.