HCP, INC.
Form 424B3
June 21, 2018

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REGISTRATION NO. 333-122456

PROSPECTUS SUPPLEMENT NO. 5
(To prospectus dated February 1, 2005)

537,213 Shares

HCP, Inc.

Common Stock

This prospectus supplement no. 5 supplements and amends the accompanying prospectus dated February 1, 2005 to update the previously filed prospectus, including to reflect an adjustment factor of 2.2986 due to the 2-for-1 stock split we effected with respect to our common stock on March 2, 2004 and our spin-off of Quality Care Properties, Inc. on October 31, 2016, resulting in the possible issuance of up to 537,213 shares of our common stock, from time to time, to the holders of units representing non-managing membership interests in HCPI/Utah II, LLC, upon tender of those units in exchange for shares of our common stock that we may issue in connection with a redemption of the tendered units.

Registration of the issuance of shares of our common stock as provided in this prospectus supplement does not necessarily mean that any of the holders of units representing non-managing membership interests in HCPI/Utah II, LLC will exercise their redemption rights with respect to the units or that we will elect, in our sole discretion, to issue shares of our common stock to satisfy our redemption obligation instead of cash.

We will not receive any cash proceeds from the issuance of the shares of our common stock to the holders of units tendered for redemption, but we may acquire units representing non-managing membership interests in HCPI/Utah II, LLC if we elect to issue shares of our common stock to a holder of units upon redemption of its units.

Our common stock is traded on the New York Stock Exchange, or NYSE, under the symbol "HCP." On June 19, 2018, the last reported sales price for our common stock on the NYSE was $24.00 per share. Shares of our common stock are subject to ownership and transfer limitations that are intended to assist us in complying with the requirements to continue to qualify as a real estate investment trust, or REIT.

Investing in our common stock involves risks. See "Risk Factors" on page S-1 of this prospectus supplement and the risk factors described in our Annual Report on Form 10-K for the year ended

December 31, 2017, as well as the risk factors relating to our business contained in documents we file with the Securities and Exchange Commission which are incorporated by reference into this prospectus supplement and the accompanying prospectus.

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

The date of this prospectus supplement is June 21, 2018.

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You should rely only on the information contained or incorporated by reference in this prospectus supplement or the accompanying prospectus. We have not authorized anyone to provide you with different information. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. This document may only be used where it is legal to sell these securities. You should not assume that the information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus is accurate as of any date other than the date on the front of each document. Our business, financial condition, results of operations and prospects may have changed since then.

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Prospectus Supplement

Prospectus

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ABOUT THIS PROSPECTUS SUPPLEMENT

This prospectus supplement and the accompanying prospectus are part of a registration statement that we filed with the Securities and Exchange Commission, or SEC. Under this registration statement, we may issue, from time to time, up to 537,213 shares of our common stock to the holders of units representing non-managing membership interests in HCPI/Utah II, LLC upon tender of those units in exchange for shares of our common stock. This prospectus supplement adds to, updates and changes information contained in the accompanying prospectus. If the description of the offering varies between this prospectus supplement and the accompanying prospectus, you should rely on the information in this prospectus supplement.

You should carefully read (i) this prospectus supplement, (ii) the accompanying prospectus and (iii) the documents incorporated by reference herein and therein that are described in this prospectus supplement and the accompanying prospectus under the heading "Where You Can Find More Information."

In this prospectus supplement, unless otherwise indicated herein or the context otherwise indicates, the terms "HCP," "we," "us," "our" and the "Company" refer to HCP, Inc., together with its consolidated subsidiaries, the term "units" refers to units representing non-managing membership interests in HCPI/Utah II, LLC; and the term "common stock" refers to shares of HCP, Inc. common stock. Unless otherwise stated, currency amounts in this prospectus supplement are stated in United States, or U.S., dollars.

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RISK FACTORS

Before acquiring our common stock, you should carefully consider the information under the heading "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2017, as updated by our subsequent filings under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and in the accompanying prospectus. Each of the risks described in these documents could materially and adversely affect our business, financial condition, results of operations and prospects, and could result in a decrease in the value of our common stock and a partial or complete loss of your investment therein.

Risks Related to This Offering

The market price and trading volume of our common stock may be volatile.

The market price of our common stock may be highly volatile and be subject to wide fluctuations. In addition, the trading volume in our common stock may fluctuate and cause significant price variations to occur. The stock market has experienced extreme price and volume fluctuations that have affected the market price of many companies in industries similar or related to ours and that have been unrelated to these companies' operating performances. If the market price of our common stock declines significantly, you may be unable to resell your shares at a gain. We cannot assure you that the market price of our common stock will not fluctuate or decline significantly in the future. Some of the factors that could negatively affect our share price or result in fluctuations in the price or trading volume of our common stock include:

- actual or anticipated variations in our quarterly operating results or distributions;
- changes in market valuations of similar companies;
- adverse market reaction to any increased indebtedness we may incur in the future;
- issuance of additional equity securities;
- actions by institutional stockholders;
- speculation in the press or investment community; and
- general market and economic conditions.

Future offerings of debt securities, which would rank senior to our common stock upon our liquidation, and future offerings of equity securities, which would dilute our existing stockholders and may be senior to our common stock for the purposes of dividend and liquidating distributions, may adversely affect the market price of our common stock.

In the future, we may raise capital through the issuance of debt or equity securities. Upon liquidation, holders of our debt securities and preferred stock and lenders with respect to other borrowings will be entitled to our available assets prior to the holders of our common stock. Additional equity offerings may dilute the holdings of our existing stockholders or reduce the market price of our common stock, or both. Preferred stock could have a preference on liquidating distributions or a preference on dividend payments that could limit our ability to pay dividends to the holders of our common stock. Sales of substantial amounts of our common stock, or the perception that these sales could occur, could have a material adverse effect on the price of our common stock. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus holders of our common stock bear the risk of our future offerings reducing the market price of our common stock and diluting the value of their stock holdings in us.

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Risks Related to the Exchange of Units for Shares of Our Common Stock

The exchange of units representing non-managing membership interests in HCPI/Utah II, LLC for our common stock is a taxable transaction.

The exchange of units of HCPI/Utah II, LLC for shares of our common stock (which may occur following the tender of such units for redemption if we elect to satisfy the redemption obligation in shares of our common stock) will be treated for U.S. federal income tax purposes as a sale of the units by the holders of such units. A holder of such units will recognize gain or loss for U.S. federal income tax purposes in an amount equal to the fair market value of the shares of our common stock received in the exchange, plus the amount of the HCPI/Utah II, LLC liabilities allocable to the units being exchanged, less the holder's adjusted tax basis in the units exchanged. The recognition of any loss is subject to a number of limitations set forth in the Internal Revenue Code of 1986, as amended, referred to herein as the Internal Revenue Code. It is possible that the amount of gain recognized or even the tax liability resulting from the gain could exceed the value of the shares of our common stock received upon the exchange. In addition, the ability of a holder of units to sell a substantial number of shares of our common stock in order to raise cash to pay tax liabilities associated with the exchange of units may be restricted and, as a result of stock price fluctuations, the price the holder receives for the shares of our common stock may not equal the value of the units at the time of the exchange.

An investment in our common stock is different from an investment in units representing non-managing membership interests in HCPI/Utah II, LLC.

If a unitholder exercises its right to redeem its units, the holder may receive cash or, at our election, shares of common stock in exchange for the units. If a unitholder tenders all of its units and receives cash, the holder will no longer have any interest in HCPI/Utah II, LLC or us, will not benefit from any subsequent increases in the share price of our common stock and will not receive any future distributions from HCPI/Utah II, LLC or us (unless the holder currently owns or acquires in the future additional shares of our common stock or additional units). If a unitholder receives shares of our common stock in exchange for its units, the holder will become one of our stockholders rather than a non-managing member in HCPI/Utah II, LLC. Although the nature of an investment in shares of our common stock is substantially equivalent economically to an investment in units representing non-managing membership interests in HCPI/Utah II, LLC, there are differences between ownership of the units and ownership of our common stock. These differences, some of which may be material to you, include:

- form of organization;
- management control;
- voting and consent rights;
- liquidity; and
- federal income tax considerations.

These differences are further described under "Comparison of HCPI/Utah II, LLC and HCP."

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WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC under the Exchange Act. You may inspect without charge any documents filed by us at the SEC's Public Reference Room at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC also maintains a website, www.sec.gov, that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC, including HCP, Inc.

The SEC allows us to "incorporate by reference" information we file with the SEC into this prospectus supplement and the accompanying prospectus. This means that we can disclose important information to you by referring you to another document that HCP has filed separately with the SEC.

The information incorporated by reference is considered to be part of this prospectus supplement and the accompanying prospectus. Information that HCP files with the SEC after the date of this prospectus supplement and that is incorporated by reference in this prospectus supplement and the accompanying prospectus will update and supersede the information included or incorporated by reference into this prospectus supplement and the accompanying prospectus. We incorporate by reference in this prospectus supplement and the accompanying prospectus the following documents (other than any portions of any such documents deemed to have been furnished and not filed in accordance with the applicable SEC rules):

- our Annual Report on Form 10-K for the fiscal year ended December 31, 2017;

- our Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2018;

- our Current Reports on Form 8-K filed on January 5, 2018, February 5, 2018, February 8, 2018, May 1, 2018, May 2, 2018 and May 31, 2018;

- those portions of our Definitive Proxy Statement on Schedule 14A filed on March 16, 2018, that are incorporated by reference into Part III of our Annual Report on Form 10-K for the fiscal year ended December 31, 2017;

- the description of our common stock contained in our registration statement on Form 10 dated May 7, 1985 (File No. 1-08895), including the amendments dated May 20, 1985 and May 23, 1985, and any other amendment or report filed for the purpose of updating such description, including the description of amendments to our charter contained in our Quarterly Reports on Form 10-Q for the quarters ended June 30, 2001, June 30, 2004 and September 30, 2007 and September 30, 2017; and

- any future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act until we sell all of the securities offered by this prospectus or the offering is otherwise terminated.

We will provide copies, without charge, of any documents incorporated by reference in this prospectus supplement or the accompanying prospectus, excluding exhibits unless specifically incorporated by reference, to any persons to whom a prospectus is delivered, including any beneficial owner, who requests them in writing or by telephone from:

Legal Department
HCP, Inc.
1920 Main Street, Suite 1200
Irvine, California 92614
(949) 407-0700
legaldept@hcpi.com

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CAUTIONARY LANGUAGE REGARDING FORWARD LOOKING STATEMENTS

Statements in this prospectus supplement and the information incorporated by reference in this prospectus supplement or the accompanying prospectus that are not historical factual statements are "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Exchange Act. Forward-looking statements include, among other things, statements regarding our and our officers' intent, belief or expectation as identified by the use of words such as "may," "will," "project," "expect," "believe," "intend," "anticipate," "seek," "forecast," "plan," "potential," "estimate," "could," "would," "should" and other comparable and derivative terms or the negatives thereof. Forward-looking statements reflect our current expectations and views about future events and are subject to risks and uncertainties that could significantly affect our future financial condition and results of operations. While forward-looking statements reflect our good faith belief and assumptions we believe to be reasonable based upon current information, we can give no assurance that our expectations or forecasts will be attained. As more fully set forth under "Risk Factors" in this prospectus supplement and under Part I, Item 1A. "Risk Factors" in our most recent Annual Report on Form 10-K, these risks and uncertainties that may cause our actual results to differ materially from the expectations contained in the forward-looking statements include, among other things:

- our reliance on a concentration of a small number of tenants and operators for a significant percentage of our revenues;

- the financial condition of our existing and future tenants, operators and borrowers, including potential bankruptcies and downturns in their businesses, and their legal and regulatory proceedings, which results in uncertainties regarding our ability to continue to realize the full benefit of such tenants' and operators' leases and borrowers' loans;

- the ability of our existing and future tenants, operators and borrowers to conduct their respective businesses in a manner sufficient to maintain or increase their revenues and to generate sufficient income to make rent and loan payments to us and our ability to recover investments made, if applicable, in their operations;

- competition for the acquisition and financing of suitable healthcare properties as well as competition for tenants and operators, including with respect to new leases and mortgages and the renewal or rollover of existing leases;

- our concentration in the healthcare property sector, particularly in senior housing, life sciences and medical office buildings, which makes our profitability more vulnerable to a downturn in a specific sector than if we were investing in multiple industries;

- our ability to identify replacement tenants and operators and the potential renovation costs and regulatory approvals associated therewith;

- the risks associated with property development and redevelopment, including costs above original estimates, project delays and lower occupancy rates and rents than expected;

- the risks associated with our investments in joint ventures and unconsolidated entities, including our lack of sole decision making authority and our reliance on our partners' financial condition and continued cooperation;

- our ability to achieve the benefits of acquisitions or other investments within expected time frames or at all, or within expected cost projections;

- the potential impact on us and our tenants, operators and borrowers from current and future litigation matters, including the possibility of larger than expected litigation costs, adverse results and related developments;

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- operational risks associated with third party management contracts, including the additional regulation and liabilities of our RIDEA lease structures;
- the effect on us and our tenants and operators of legislation, executive orders and other legal requirements, including compliance with the Americans with Disabilities Act, fire, safety and health regulations, environmental laws, the Affordable Care Act, licensure, certification and inspection requirements, and laws addressing entitlement programs and related services, including Medicare and Medicaid, which may result in future reductions in reimbursements or fines for noncompliance;
- changes in federal, state or local laws and regulations, including those affecting the healthcare industry that affect our costs of compliance or increase the costs, or otherwise affect the operations, of our tenants and operators;
- our ability to foreclose on collateral securing our real estate-related loans;
- volatility or uncertainty in the capital markets, the availability and cost of capital as impacted by interest rates, changes in our credit ratings, and the value of our common stock, and other conditions that may adversely impact our ability to fund our obligations or consummate transactions, or reduce the earnings from potential transactions;
- changes in global, national and local economic and other conditions, including currency exchange rates;
- our ability to manage our indebtedness level and changes in the terms of such indebtedness;
- competition for skilled management and other key personnel;
- the potential impact of uninsured or underinsured losses;
- our reliance on information technology systems and the potential impact of system failures, disruptions or breaches; and
- our ability to maintain our qualification as a real estate investment trust ("REIT").

Except as required by law, we do not undertake, and hereby disclaim, any obligation to update any forward-looking statements, which speak only as of the date on which they are made.

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THE COMPANY

HCP, an S&P 500 company, invests primarily in real estate serving the healthcare industry in the United States. We are a Maryland corporation organized in 1985 and qualify as a self-administered REIT. We are headquartered in Irvine, California, with offices in Nashville and San Francisco. Our diverse portfolio is comprised of investments in the following reportable healthcare segments: (i) senior housing triple-net, (ii) senior housing operating portfolio, (iii) life science and (iv) medical office.

Our principal executive offices are located at 1920 Main Street, Suite 1200, Irvine California 92614, and our telephone number is (949) 407-0700.

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USE OF PROCEEDS

We will not receive any cash proceeds from the issuance of shares of common stock offered by this prospectus supplement; however, we may acquire units representing non-managing membership interests in HCPI/Utah II, LLC if we elect to issue shares of our common stock to a holder of units upon redemption of its units.

DESCRIPTION OF CAPITAL STOCK

The following description summarizes the material provisions of the common stock and preferred stock we may offer. This description is not complete and is subject to, and is qualified in its entirety by reference to, our charter and our bylaws and applicable provisions of the Maryland General Corporation Law, or the MGCL. The specific terms of any series of preferred stock will be described in the applicable prospectus supplement. Any series of preferred stock we issue will be governed by our charter and by the articles supplementary related to that series. We will file the articles supplementary with the SEC and incorporate it by reference as an exhibit to our registration statement at or before the time we issue any preferred stock of that series of authorized preferred stock.

Our authorized capital stock consists of 750,000,000 shares of common stock, par value $1.00 per share, and 50,000,000 shares of preferred stock, par value $1.00 per share. The following description does not contain all the information that might be important to you.

Common Stock

As of June 19, 2018, there were 469,796,924 shares of common stock outstanding. All shares of common stock participate equally in dividends payable to holders of common stock, when, as and if authorized by our board and declared by us, and in net assets available for distribution to holders of common stock on liquidation, dissolution, or winding up. Each outstanding share of common stock entitles the holder to one vote on all matters submitted to a vote of our stockholders. Holders of common stock do not have cumulative voting rights in the election of directors.

All issued and outstanding shares of common stock are, and the common stock offered by this prospectus supplement will be upon issuance, validly issued, fully paid and nonassessable. Holders of common stock do not have preference, conversion, exchange or preemptive rights. The common stock is listed on the NYSE (NYSE Symbol: HCP).

The Transfer Agent and Registrar for our common stock is Equiniti Trust Company d/b/a EQ Shareowner Services.

Preferred Stock

As of June 19, 2018 we had no shares of preferred stock outstanding. Under our charter, our board is authorized without further stockholder action to establish and issue, from time to time, up to 50,000,000 shares of our preferred stock, in one or more series. Our board may grant the holders of preferred stock of any series preferences, powers and rights voting or otherwise senior to those of holders of shares of our common stock. Our board can authorize the issuance of shares of preferred stock with terms and conditions that could have the effect of delaying or preventing a change of control transaction that might involve a premium price for holders of shares of our common stock or otherwise be in their best interest. All shares of preferred stock will, when issued in exchange for the consideration therefore, be fully paid and nonassessable and will have no preemptive rights. The MGCL and our charter require our board to determine the terms and conditions of any series of preferred stock, including:

- the number of shares constituting such series and the distinctive designation thereof;
- the voting rights, if any, of such series;
- the rate of dividends payable on such series, the time or times when dividends will be payable, the preference to, or any relation to, the payment of dividends to any other class or series of stock and whether the dividends will be cumulative or noncumulative;
- whether there shall be a sinking or similar fund for the purchase of shares of such series and, if so, the terms and provisions that shall govern such fund;

- the rights of the holders of shares of such series upon our liquidation, dissolution or winding up;
- the rights, if any, of holders of shares of such series to convert such shares into, or to exchange such shares for, shares of any other class or classes or any other series of the same or of any other class or classes of our stock or any other securities, the price or prices or rate or rates of exchange, with such adjustments as shall be provided, at which such shares shall be convertible or exchangeable, whether such rights of conversion or exchange shall be exercisable at the option of the holder of the shares or upon the happening of a specified event and any other terms or conditions of such conversion or exchange;
- if the shares are redeemable, the prices at which, and the terms and conditions on which, the shares of such series may be redeemed; and
- any other preferences, powers and relative participating, optional or other special rights and qualifications, limitations or restrictions of shares of such series.

The terms and conditions of any particular series of preferred stock will be described in the prospectus supplement relating to that particular series of preferred stock.

Transfer and Ownership Restrictions Relating to Our Common Stock

Our charter contains restrictions on the ownership and transfer of our common stock that are intended to assist us in complying with the requirements to continue to qualify as a REIT.

Subject to limited exceptions, no person or entity may own, or be deemed to own by virtue of the applicable constructive ownership provisions of the Internal Revenue Code, more than 9.8% (by number or value of shares, whichever is more restrictive) of the outstanding shares of our common stock. Our board may, but is in no event required to, waive the applicable ownership limit with respect to a particular stockholder if it determines that such ownership will not jeopardize our status as a REIT and our board otherwise decides such action would be in our best interests.

These charter provisions further prohibit:

- any person from actually or constructively owning shares of our stock that would result in our being "closely held" under Section 856(h) of the Internal Revenue Code or otherwise cause us to fail to qualify as a REIT (including but not limited to ownership that would result in us owning, actually or constructively, an interest in a tenant as described in Section 856(d)(2)(B) of the Internal Revenue Code if the income derived by us, either directly or indirectly, from such tenant would cause us to fail to satisfy any of the gross income requirements of Section 856(c) of the Internal Revenue Code); and
- any person from transferring shares of our capital stock if such transfer would result in shares of our stock being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution).

Any person who acquires or attempts or intends to acquire actual or constructive ownership of shares of our stock that will or may violate any of these restrictions on ownership and transfer is required to give notice immediately to us and provide us with such other information as we may request in order to determine the effect of the transfer on our qualification as a REIT. Under our charter, if any purported transfer of our stock or any other event would otherwise result in any person violating the applicable ownership limit or such other limit as permitted by our board, then any such purported transfer is void and of no force or effect with respect to the purported transferee as to that number of shares of our stock in excess of the ownership limit or such other limit, and the transferee will acquire no right or interest in such excess shares. Any excess shares described above are transferred automatically, by operation of law, to a trust, the beneficiary of which is a qualified charitable organization selected by us. Such automatic transfer will be deemed to be effective as of the

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close of business on the business day prior to the date of such violative transfer. Within 20 days of receiving notice from us of the transfer of shares to the trust, the trustee of the trust is required to sell the excess shares to a person or entity who could own the shares without violating the applicable ownership limit, or such other limit as permitted by our board, and distribute to the prohibited transferee an amount equal to the lesser of the price paid by the prohibited transferee for the excess shares or the sales proceeds received by the trust for the excess shares. Any proceeds in excess of the amount distributable to the prohibited transferee are distributed to the beneficiary of the trust. Prior to a sale of any such excess shares by the trust, the trustee is entitled to receive, in trust for the beneficiary, all dividends and other distributions paid by us with respect to such excess shares, and also is entitled to exercise all voting rights with respect to such excess shares.

Subject to Maryland law, effective as of the date that such shares have been transferred to the trust, the trustee will have the authority, at the trustee's sole discretion:

- to rescind as void any vote cast by a prohibited transferee prior to the discovery by us that the shares have been transferred to the trust; or

- to recast such vote in accordance with the desires of the trustee acting for the benefit of the beneficiary of the trust.

However, if we have already taken irreversible corporate action, then the trustee will not have the authority to rescind and recast such vote. Any dividend or other distribution paid to the prohibited transferee, prior to the discovery by us that such shares had been automatically transferred to a trust as described above, are required to be repaid to the trustee upon demand for distribution to the beneficiary of the trust. In the event that the transfer to the trust as described above is not automatically effective, for any reason, to prevent violation of the ownership limit or such other limit as permitted by our board, then our charter provides that the transfer of the excess shares is void ab initio.

In addition, shares of common stock held in the trust shall be deemed to have been offered for sale to us, or our designee, at a price per share equal to the lesser of:

- the price per share in the transaction that resulted in such transfer to the trust or, in the case of a devise or gift, the market price at the time of such devise or gift; and

- the market price on the date we, or our designee, accepted the offer.

We will have the right to accept the offer until the trustee has sold the shares of stock held in the trust. Upon a sale to us, the interest of the beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the prohibited transferee.

If any purported transfer of shares of common stock would cause us to be beneficially owned by fewer than 100 persons, such transfer will be null and void ab initio in its entirety and the intended transferee will acquire no rights to the stock.

All certificates representing shares of common stock bear a legend referring to the restrictions described above. The foregoing ownership limitations could delay, defer or prevent a transaction or a change in control of us that might involve a premium price for the common stock or otherwise be in the best interest of our stockholders.

In addition, if our board shall, at any time and in good faith, be of the opinion that direct or indirect ownership of at least 9.9% of the voting shares of capital stock has or may become concentrated in the hands of one beneficial owner, it shall have the power:

- by lot or other means deemed equitable by it to call for the purchase from any stockholder of a number of voting shares sufficient, in the opinion of our board, to maintain or bring the direct

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or indirect ownership of voting shares of capital stock of the beneficial owner to a level of no more than 9.9% of our outstanding voting shares; and

to refuse to transfer or issue voting shares of capital stock to any person whose acquisition of such voting shares would, in the opinion of the board, result in the direct or indirect ownership by that person of more than 9.9% of the outstanding voting shares of our capital stock.

If our board fails to grant an exemption from this 9.9% ownership limitation, then the transfer of shares, options, warrants, or other securities convertible into voting shares that would create a beneficial owner of more than 9.9% of the outstanding voting shares shall be deemed void ab initio, and the intended transferee shall be deemed never to have had an interest in the transferred securities. The purchase price for any voting shares of capital stock so redeemed shall be equal to the fair market value of the shares reflected in the closing sales price for the shares, if then listed on a national securities exchange, or the average of the closing sales prices for the shares if then listed on more than one national securities exchange, or if the shares are not then listed on a national securities exchange, the latest bid quotation for the shares if then traded over-the-counter, on the last business day immediately preceding the day on which we send notices of such acquisitions, or, if no such closing sales prices or quotations are available, then the purchase price shall be equal to the net asset value of such stock as determined by the board in accordance with the provisions of applicable law. From and after the date fixed for purchase by the board, the holder of any shares so called for purchase shall cease to be entitled to distributions, voting rights and other benefits with respect to such shares, except the right to payment of the purchase price for the shares.

Business Combination Provisions

Our charter requires that, except in some circumstances, "business combinations" between us and a beneficial holder of 10% or more of our outstanding voting stock (a "Related Person") be approved by the affirmative vote of at least 90% of our outstanding voting shares. A "business combination" is defined in our charter as:

any merger or consolidation with or into a Related Person;

any sale, lease, exchange, transfer or other disposition, including without limitation a mortgage or any other security device, of all or any "Substantial Part" (as defined below) of our assets, including any voting securities of a subsidiary, to a Related Person;

any merger or consolidation of a Related Person with or into us;

any sale, lease, exchange, transfer or other disposition of all or any Substantial Part of the assets of a Related Person to us;

the issuance of any of our securities, other than by way of pro rata distribution to all stockholders, to a Related Person; and

any agreement, contract or other arrangement providing for any of the transactions described above.

The term "Substantial Part" means more than 10% of the book value of our total assets as of the end of our most recent fiscal year ending prior to the time the determination is being made.

In addition to the restrictions on business combinations contained in our charter, Maryland law also contains restrictions on business combinations. See "Certain Provisions of Maryland Law and HCP's Charter and Bylaws Business Combinations."

The foregoing provisions may have the effect of discouraging unilateral tender offers or other takeover proposals which stockholders might deem to be in their interests or in which they might receive a substantial premium. Our board's authority to issue and establish the terms of currently

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authorized preferred stock, without stockholder approval, may also have the effect of discouraging takeover attempts. See " Preferred Stock."

The foregoing provisions could also have the effect of insulating current management against the possibility of removal and could, by possibly reducing temporary fluctuations in market price caused by accumulations of shares of our common stock, deprive stockholders of opportunities to sell at a temporarily higher market price. Our board believes, however, that inclusion of the business combination provisions in our charter may help assure fair treatment of our stockholders and preserve our assets.

Transfer and Ownership Restrictions Relating to Our Preferred Stock

Our charter may contain restrictions on the ownership and transfer of preferred stock that are intended to assist us in complying with the requirements to maintain our qualification as a REIT. Subject to limited exceptions, unless otherwise provided in a prospectus supplement relating to a particular series of the preferred stock, no person or entity may own, or be deemed to own by virtue of the applicable constructive ownership provisions of the Internal Revenue Code, more than 9.8% (by number or value of shares, whichever is more restrictive) of the outstanding shares of such series of preferred stock. Our board may, but in no event will be required to, waive the applicable ownership limit with respect to a particular stockholder if it determines that such ownership will not jeopardize our qualification as a REIT and our board otherwise decides such action would be in our best interests. The mechanics for the ownership limits on our preferred stock will be similar to the mechanics related to our common stock, as described in "Transfer and Ownership Restrictions Relating to Our Common Stock" above, unless otherwise provided in a prospectus supplement relating to a particular series of the preferred stock.

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OPERATING AGREEMENT

The following summarizes the material provisions of the operating agreement, as amended, of HCPI/Utah II, LLC. The summary is qualified in its entirety by reference to the operating agreement of HCPI/Utah II, LLC, which is filed as an exhibit to the Current Report on Form 8-K dated November 9, 2012.

Management

HCPI/Utah II, LLC was organized as a Delaware limited liability company under the Delaware Limited Liability Company Act and the terms of its operating agreement, the Amended and Restated Limited Liability Company Agreement of HCPI/Utah II, LLC. HCP is the sole managing member of HCPI/Utah II, LLC. Generally, pursuant to the operating agreement, we have exclusive and complete responsibility and discretion in the management and control of HCPI/Utah II, LLC, including, subject to the restrictions discussed below, the ability to cause it to enter into major transactions such as acquisitions, dispositions, financings, and refinancings, and to manage and operate its properties. We may not be removed as the managing member of HCPI/Utah II, LLC, with or without cause, unless we consent to being removed. Non-managing members of HCPI/Utah II, LLC have no authority to transact business for HCPI/Utah II, LLC or participate in its management activities, except in limited circumstances described below and as required by any non-waivable provision of applicable law.

As the managing member, we may not take any action in contravention of the operating agreement, including:

- taking any action that would make it impossible to carry out the ordinary business of HCPI/Utah II, LLC, except as otherwise provided in the operating agreement;

- possessing or assigning any rights in specific property owned by HCPI/Utah II, LLC, other than for a HCPI/Utah II, LLC purpose, except as otherwise provided in the operating agreement;

- taking any action that would cause a non-managing member to be subject to liability as a managing member or any other liability, except as provided in the operating agreement or by law;

- entering into any agreement that would have the effect of restricting a member of HCPI/Utah II, LLC from exercising its right to exchange its units as provided in the operating agreement and discussed below under "Exchange Rights," or the effect of restricting HCPI/Utah II, LLC or us from satisfying our obligations under the operating agreement to effect such exchange, unless such member gives its prior written consent to such action; or

- entering into any agreement that would have the effect of restricting HCPI/Utah II, LLC's ability to make distributions to its members, without the written consent of each member affected by the restriction.

The consent of the holders of a majority of the outstanding non-managing member units is required before we will be permitted to take the following extraordinary actions involving HCPI/Utah II, LLC, subject to limited exceptions:

- the amendment, modification or termination of the operating agreement other than to reflect the permitted admission, substitution, termination or withdrawal of members or in connection with a permitted dissolution or termination of HCPI/Utah II, LLC;

- approving or acquiescing to the transfer of all or a portion of the membership interest held by us, other than a transfer to HCPI/Utah II, LLC;

- the admission of any additional or substitute managing members in HCPI/Utah II, LLC;

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- making a general assignment for the benefit of HCPI/Utah II, LLC's creditors, appointing or acquiescing to the appointment of a custodian for any part of the assets of HCPI/Utah II, LLC or instituting any proceeding for bankruptcy on behalf of HCPI/Utah II, LLC; or

- confessing a judgment against HCPI/Utah II, LLC in excess of $5,000,000.

In addition to the above restrictions, we, as the managing member, may not amend the operating agreement or take actions without the consent of any non-managing member who would be adversely affected if such amendments or actions would, among other things:

- convert a non-managing member's interest in HCPI/Utah II, LLC into a managing member interest;

- modify the limited liability of a non-managing member;

- alter the rights of a member to receive distributions or the allocation of income and loss to a member; or

- materially alter the right of a member to exchange its non-managing member units for our common stock.

As managing member, we may, however, amend the operating agreement without non-managing member consent:

- to reflect the issuance of additional membership interests in exchange for capital contributions of cash or property, or the admission, substitution, termination or withdrawal of members or the redemption or other reduction in the number of units outstanding as permitted by the operating agreement;

- to reflect inconsequential changes that do not adversely affect the non-managing members, cure ambiguities and make other changes not inconsistent with law or the provisions of the operating agreement;

- to satisfy any requirements, conditions or guidelines contained in any governmental order or required by law;

- to reflect changes that are reasonably necessary for us, our affiliates or other members to maintain their status as a REIT; or

- to modify the manner in which capital accounts are computed.

Tax Protection Period

Until the earlier of (a) a specified date with respect to certain real properties or (b) such time as certain non-managing members of HCPI/Utah II, LLC (excluding the non-managing members that were issued non-managing member units on February 28, 2007) have disposed, in taxable transactions, of 80% of the non-managing member units issued to them in exchange for their contribution of property to HCPI/Utah II, LLC (the "Tax Protection Period"), HCPI/Utah II, LLC will be required to pay to specified non-managing members a make-whole payment in an amount equal to the aggregate federal, state and local income taxes incurred by the non-managing member as a result of the event, if we do any of the following, subject to limited exceptions, without the prior consent of the holders of a majority of the non-managing member units held by non-managing members:

- cause HCPI/Utah II, LLC to merge with another entity, sell all or substantially all of its assets or reclassify its outstanding equity interests (except in connection with certain expenditures and lending and borrowing of money, certain mortgaging and encumbering of the assets of HCPI/Utah II, LLC and the forming of entities as wholly-owned subsidiaries for certain purposes);

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- sell certain of HCPI/Utah II, LLC's real properties;
- refinance specified nonrecourse indebtedness of HCPI/Utah II, LLC, unless such indebtedness is refinanced with nonrecourse indebtedness that does not require principal payments greater than the existing indebtedness and is secured solely by the property which secured the repayment of the existing indebtedness;
- prepay such specified nonrecourse indebtedness;
- convert such specified nonrecourse indebtedness to recourse indebtedness; or
- fail to provide certain non-managing members the opportunity to guaranty debt of HCPI/Utah II, LLC in an amount up to the non-managing member's share of a specified recourse debt amount, as determined by the non-managing member representative.

HCPI/Utah II, LLC will also be required to pay a make-whole payment to specified non-managing members if, without the consent of the holders of a majority of the non-managing member units held by non-managing members, we dissolve HCPI/Utah II, LLC, unless certain non-managing members have disposed of 90% of the non-managing member units issued to them in exchange for their contribution of property to HCPI/Utah II, LLC prior to the third anniversary of the issuance of such non-managing member units or 80% of such non-managing member units thereafter (the "Dissolution Protection Period").

In the event that HCP/Utah II, LLC fails to pay a required make-whole payment, then we shall make the make-whole payment.

Transferability of Interests

The operating agreement provides that a non-managing member may transfer its units only after first offering those units to us and otherwise obtaining our consent, except that a non-managing member may, without obtaining our consent, pledge its units as security for the repayment of debt and transfer such units to the lender upon the foreclosure of such debt if such transfer would not otherwise violate the terms of the operating agreement. A non-managing member may also, without our consent, transfer its units to a partner or member in such non-managing member, as a distribution or in liquidation of that partner's or member's interest in such non-managing member, to a family member of such non-managing member, a trust all of the beneficiaries of which are such non-managing member and family members of such non-managing member, a corporation, general or limited partnership or limited liability company all of the owners of which are such non-managing member and family members of such non-managing member or to an organization described in Sections 170(b)(1)(A), 170(c)(2) or 501(c)(3) of the Internal Revenue Code, in each case, so long as the transfer would not otherwise violate the terms of the operating agreement. The operating agreement further imposes the following restrictions on the transfer of the non-managing member units:

- the person to whom any units are transferred must assume all of the obligations of the transferor under the operating agreement;
- we will have the right to receive an opinion of counsel that the proposed transfer may be effected without registration under the Securities Act, and will not otherwise violate any federal or state securities laws or regulations;
- we may prohibit any transfer otherwise permitted under the operating agreement if such transfer would require the filing of a registration statement under the Securities Act or would otherwise violate any applicable federal or state securities laws or regulations;
- no transfer may be made to any person without our consent if such transfer could result in HCPI/Utah II, LLC being treated as an association taxable as a corporation, adversely affect our

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ability to maintain our status as a REIT or subject us to additional taxes under Sections 857 or 4981 of the Internal Revenue Code;

no transfer may be made if such transfer could be treated as having been effectuated through an "established securities market" or a "secondary market (or substantial equivalent thereof)" within the meaning of Section 7704 of the Internal Revenue Code;

no transfer may be made to a lender of HCPI/Utah II, LLC or any person related to such a lender whose loan constitutes "nonrecourse liability" within the meaning of the Internal Revenue Code, without our consent as managing member;

transfers may be made only as of the first day of a fiscal quarter of HCPI/Utah II, LLC, unless we otherwise consent; and

no transfer may be made (1) to any person or entity who lacks the legal right, power or capacity to own a membership interest; (2) in violation of applicable law; (3) if such transfer would, in the opinion of legal counsel to us or HCPI/Utah II, LLC, cause an increased tax liability to any other member or assignee as a result of the termination of HCPI/Utah II, LLC; (4) if such transfer would cause HCPI/Utah II, LLC to become a reporting company under the Exchange Act; or (5) if such transfer would cause HCPI/Utah II, LLC to lose certain material tax benefits or become subject to certain regulations not currently applicable to it.

The admission of a transferee of non-managing membership units as a non-managing member of HCPI/Utah II, LLC is subject to the transferee's acceptance of the terms and conditions of HCPI/Utah II, LLC's operating agreement.

Capital Contributions

The operating agreement provides that if HCPI/Utah II, LLC requires additional funds for its operation, we may fund those investments by making a capital contribution to HCPI/Utah II, LLC. In addition, in certain circumstances, we are required to make additional capital contributions, including to the extent necessary:

to fund capital additions, tenant improvements and leasing commissions relating to HCPI/Utah II, LLC's real properties except those tenant improvement costs not assumed by HCPI/Utah II, LLC at the time the applicable property was contributed to it; and

to repay certain mortgage debt of HCPI/Utah II, LLC that we elect to repay in accordance with the terms of the operating agreement.

If we fund a capital contribution, we have the right to receive additional managing member units. In the event we receive additional managing member units in return for additional capital contributions, our membership interest in HCPI/Utah II, LLC will be increased. Non-managing members of HCPI/Utah II, LLC do not have the right to make additional capital contributions to HCPI/Utah II, LLC unless permitted to do so by us in our discretion. Accordingly, the membership interests of non-managing members in HCPI/Utah II, LLC will be diluted to the extent we receive an additional membership interest.

Tax Matters

Pursuant to the operating agreement, we are the tax matters partner of HCPI/Utah II, LLC. The tax matters partner serves as HCPI/Utah II, LLC's representative in most tax matters. For example, as the tax matters partner, we have the authority to file tax returns and make elections for HCPI/Utah II, LLC, conduct audits, file refund claims on behalf of HCPI/Utah II, LLC and settle adjustments. In addition, as the tax matters partner, we will receive notices and other information from

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the Internal Revenue Service, or IRS. The designation of HCP as the tax matters partner of HCPI/Utah II, LLC is not directly relevant to our tax status as a REIT.

Pursuant to the Bipartisan Budget Act of 2015, the Internal Revenue Code will no longer require that we designate a tax matters partner. For taxable years beginning after December 31, 2017, we anticipate that HCPI/Utah, II LLC will designate a partnership representative to act on its behalf for purposes of, among other things, U.S. federal income tax audits and judicial review of administrative adjustments by the IRS.

Operations

The sole purposes of HCPI/Utah II, LLC are to acquire, own, manage, operate, maintain, improve, expand, redevelop, encumber, sell or otherwise dispose of the real properties contributed to it, and any other properties acquired by it, and to invest and ultimately distribute funds obtained from owning, operating or disposing of such properties. The operating agreement provides, however, that we, as managing member, may operate HCPI/Utah II, LLC in a manner that will enable us to satisfy the requirements for being classified as a REIT and avoid any federal income tax liability, among other things. Under the operating agreement, HCPI/Utah II, LLC assumes and pays when due, or reimburses us for payment of, all costs and expenses that we incur for the benefit of or relating to its operation.

Distributions

Holders of non-managing member units are entitled to receive cumulative preferential distributions from the date of issuance of those non-managing member units, payable on a quarterly basis. The right of holders of non-managing member units to receive cumulative preferential distributions means that, unless and until each of those quarterly distributions are paid in full, HCPI/Utah II, LLC cannot make any distributions to us. These preferred distributions are an amount per unit equal to the amount payable with respect to each share of our common stock for the corresponding quarter (subject to adjustment in the event we pay a dividend or distribution on our common stock in shares of our common stock, split or subdivide our common stock or effect a reverse stock split or other combination of our common stock into a smaller number of shares). Following the payment of the preferred distribution to holders of the non-managing member units, HCPI/Utah II, LLC is required to distribute the remaining cash available for distribution to us until all distributions of cash, including prior distributions, have been made to the members of HCPI/Utah II, LLC pro rata on the basis of the number of managing member or non-managing member units held by them as compared to the total number of managing member and non-managing member units then outstanding. Thereafter, the remaining cash available for distribution is distributed to the unitholders in proportion to their Sharing Percentages. The "Sharing Percentage" of a holder of non-managing member units is determined by multiplying 1% by a fraction, the numerator of which is the number of non-managing member units then outstanding and the denominator of which is the number of non-managing member units issued to certain non-managing members, and multiplying the result by a fraction, the numerator of which is the number of non-managing member units held by such unitholder, and the denominator of which is the total number of non-managing member units then outstanding. Our "Sharing Percentage," as the managing member of HCPI/Utah II, LLC, is equal to 100% minus the aggregate Sharing Percentage of the holders of non-managing member units.

In the event of a taxable disposition of some of HCPI/Utah II, LLC's real property, we may elect to distribute all or a portion of the net proceeds of the taxable disposition to the unitholders. In this event, we must distribute these proceeds as follows:

- first, to the holders of non-managing member units to pay any previously unpaid preferred distribution on the non-managing member units held by them;

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second, to us until all distributions of cash, including prior distributions, have been made to the members of HCPI/Utah II, LLC pro rata on the basis of the number of managing member or non-managing member units held by them as compared to the total number of managing member and non-managing member units then outstanding;

third, to the holders of managing member units and non-managing member units in proportion to the number of managing member units and non-managing member units held by them in redemption of those units, as discussed below, until all non-managing member units have been redeemed; and

finally, the remaining balance to us.

The distribution of the net proceeds from the taxable disposition of real property will constitute a return of capital to the unitholders of HCPI/Utah II, LLC. As such, we will cause HCPI/Utah II, LLC to reduce the number of units outstanding at the time of such distributions by causing non-managing member units to be redeemed.

Upon the refinancing of a property or the incurrence of additional debt, the repayment of which is secured by a property owned by HCPI/Utah II, LLC, we may elect to distribute all or a portion of the refinancing or other debt proceeds to the unitholders. In this event, we must distribute such proceeds:

first, to the holders of non-managing member units to pay any previously unpaid preferred distribution on the non-managing member units held by them; and

finally, the remaining balance to us.

Allocation of Income and Loss

The operating net income and net loss of HCPI/Utah II, LLC is generally allocated as follows:

operating net loss for any fiscal year is allocated to the unitholders in accordance with their Sharing Percentages; and

operating net income for any fiscal year is allocated as follows:

first, to each unitholder to the extent necessary to offset any operating net loss previously allocated to such unitholder; and

second, to each unitholder in an amount that will cause the current allocation, together with all previous allocations of operating net income and net income resulting from the disposition of real property, to be pro rata to the cumulative distributions received by such unitholder for the current and all prior fiscal years;

In the event HCPI/Utah II, LLC sells or otherwise disposes of any of its real properties, however, the net income or net loss attributable to such sale or disposition is generally allocated as follows:

net loss attributable to the sale or other disposition of real property is allocated to the holders of units in proportion to their Sharing Percentages; and net income attributable to the sale or other disposition of real property is allocated as follows:

- first, to each unitholder to the extent necessary to offset any net loss previously allocated to such unitholder upon the sale or other disposition of a property;

- second, to each unitholder in an amount that will cause the current allocation, together with all previous allocations of operating net income and net income resulting from the disposition of real property, to be pro rata to the cumulative distributions received by such unitholder for the current and all prior fiscal years; and

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thereafter, to each unitholder in proportion to the number of units held by them.

In the event HCPI/Utah II, LLC liquidates or if no units are held by non-managing members, the net income or net loss for that year and any subsequent years is generally allocated as follows:

- first, to holders of non-managing member units in such amounts as will cause their capital account per unit to be, to the greatest extent possible, equal to the sum of: (a) the holder's preferred return shortfall per unit (if any), (b) the value of two shares of our stock (subject to specified adjustments), and (c) their pro rata share of a 1% (subject to adjustment) sharing amount; and

- thereafter, to us.

Each of the allocation provisions described above is subject to special allocations relating to depreciation deductions and to compliance with the provisions of Sections 704(b) and 704(c) of the Internal Revenue Code and related Treasury Regulations.

Term

The operating agreement provides that HCPI/Utah II, LLC will continue until dissolved by us in accordance with the provisions of the operating agreement or as otherwise provided by law. HCPI/Utah II, LLC also will dissolve if:

- we withdraw as the managing member (other than in an event of bankruptcy) and the non-managing members holding a majority of the non-managing member units then outstanding do not agree in writing within 90 days to continue the business of HCPI/Utah II, LLC and to the appointment of a substitute managing member;

- we elect to dissolve it in accordance with the provisions of the operating agreement;

- it sells all or substantially all of its assets and properties;

- it is dissolved by judicial order;

- we dissolve or become bankrupt or otherwise incapacitated, unless within 90 days the non-managing members holding a majority of the outstanding non-managing member units agree in writing to continue the business of HCPI/Utah II, LLC and to the appointment of a substitute managing member; or

- all of the non-managing member units held by non-managing members have been exchanged for cash or our common stock.

Indemnification and Management Liability

The operating agreement provides that, to the fullest extent permitted by law, HCPI/Utah II, LLC will indemnify us, our directors, our and HCPI/Utah II, LLC's officers and employees and those other persons and entities that we may designate, unless:

- the act taken by an indemnitee that was material to the matter giving rise to the proceeding was in bad faith or was the result of active and deliberate dishonesty;

- an indemnitee received an improper personal benefit; or

- in the case of any criminal proceeding, an indemnitee had reasonable cause to believe the act was unlawful.

HCPI/Utah II, LLC is obligated to reimburse the reasonable expenses incurred by an indemnitee in advance of the final disposition of the proceeding if such indemnitee provides HCPI/Utah II, LLC with an affirmation of its good faith belief that the standard of conduct necessary for indemnification

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has been met and an undertaking to repay the amount of the reimbursed expenses if it is determined that such standard was not met. No member of HCPI/Utah II, LLC, including HCP, is obligated to make capital contributions to enable HCPI/Utah II, LLC to fund these indemnification obligations.

The operating agreement generally provides that neither we nor any of our directors or officers will incur liability to HCPI/Utah II, LLC or any non-managing member for losses sustained or liabilities incurred as a result of errors in judgment or mistakes of fact or law or of any act or omission if we acted in good faith. In addition, we are not responsible for any misconduct or negligence on the part of our officers, directors or other agents, provided we have appointed such agents in good faith. We may consult with legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisors, and any action we take or omit to take in reliance upon their opinion, as to matters which we reasonably believe to be within their professional or expert competence, will be conclusively presumed to have been done or omitted in good faith and in accordance with their opinion.

Exchange Rights

Non-managing member units are exchangeable in whole or in part for, at our election, cash or shares of our common stock.

Upon an exchange, the tendering holder will receive, at our election, either (a) that number of shares of our common stock determined by multiplying the number of non-managing member units tendered by an adjustment factor (the "Exchange Shares") or (b) an amount of cash equal to the market value of such number of Exchange Shares. As of the date of this prospectus supplement, the adjustment factor is 2.2986 due to the 2-for-1 stock split we effected with respect to our common stock on March 2, 2004 and our spin-off of Quality Care Properties, Inc. on October 31, 2016; the adjustment factor may be further adjusted from time to time to account for the economic effect of the payment of any dividends or other distributions on our common stock in shares of common stock, any split or subdivision in our outstanding common stock, and any reverse stock split or other combination of our outstanding common stock into a smaller number of shares. If we elect to deliver cash in exchange for the tendered units, the market value of each Exchange Share will be deemed to be the average of the closing trading price of our common stock for the 10 trading days ending on the second trading day immediately prior to the date on which the tendering holder delivers a notice of exchange to us. Non-managing member units that are acquired by us pursuant to the exercise of a non-managing member's exchange rights will be held by us as non-managing member units, with the same rights and preferences of non-managing member units held by non-managing members of HCPI/Utah II, LLC.

Our acquisition of non-managing member units, whether they are acquired in exchange for shares of our common stock or cash, will be treated as a sale of the non-managing member units to us for U.S. federal income tax purposes. See "United States Federal Income Tax Considerations Taxation of an Exchange or Redemption of Units."

A tendering holder effecting an exchange of all or a portion of the holder's units must deliver to us a notice of exchange as required by the operating agreement. In general, a tendering holder has the right to receive cash or, at our election, shares of our common stock, which are generally payable in connection with the exchange, on the thirtieth day following our receipt of the notice of exchange. All shares of our common stock delivered in exchange for non-managing member units will be duly authorized, validly issued, fully paid and non-assessable shares, free of any pledge, lien, encumbrance or restriction, other than those provided in our charter, our bylaws, the Securities Act and relevant state securities or blue sky laws. Notwithstanding any delay in delivery of shares in exchange for tendered units, the tendering holder shall be deemed the owner of such shares and vested with all rights of a stockholder as of the date on which the exchange occurs, including the right to vote or consent, and the

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right to receive dividends. Correspondingly, the tendering holder's right to receive distributions with respect to the tendered units will cease as of the date on which the exchange occurs.

We will not be obligated to effect an exchange of tendered units if the issuance of shares of our common stock to the tendering holder upon such exchange would be prohibited under the provisions of our charter, particularly those which are intended to protect our qualification as a REIT. We will not be obligated to effect an exchange of tendered units until the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

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COMPARISON OF HCPI/UTAH II, LLC AND HCP

Generally, the nature of an investment in our common stock is similar in several respects to an investment in units representing non-managing membership interests in HCPI/Utah II, LLC. However, there are also differences between ownership of such units and ownership of our common stock, some of which may be material to investors.

HCPI/Utah II, LLC and HCP are organized and incorporated in Delaware and Maryland, respectively. Upon the exchange of units representing non-managing membership interests in HCPI/Utah II, LLC for shares of our common stock, the rights of stockholders of HCP will be governed by the Maryland General Corporation Law and by our charter and bylaws.

The information below highlights the material differences between HCPI/Utah II, LLC and us, relating to, among other things, form of organization, management control, voting rights, compensation and fees, investor rights, liquidity and federal income tax considerations. These comparisons are intended to assist holders of non-managing member units in understanding the ways in which their investment will be materially changed if they tender their units in exchange for shares of our common stock.

The following discussion is summary in nature and does not constitute a complete discussion of these matters. The differences between the rights of HCPI/Utah II, LLC unitholders and HCP stockholders may be determined in full by reference to the Maryland General Corporation Law, the Delaware Limited Liability Company Act, our charter and bylaws, the operating agreement of HCPI/Utah II, LLC, as amended to date, and the balance of this prospectus supplement, the accompanying prospectus and the registration statement of which the accompanying prospectus is a part.

	HCPI/Utah II, LLC / Delaware Law	HCP / Maryland Law
Form of Organization and Assets Owned	HCPI/Utah II, LLC is a Delaware limited liability company. HCPI/Utah II, LLC currently owns 31 properties and 100% membership interests in each of HCPI/Wesley, LLC and HCPI/Stansbury, LLC.	We are a Maryland corporation and were organized to qualify as a self-administered REIT that, together with our unconsolidated joint ventures, invests primarily in real estate serving the healthcare industry in the United States. We acquire, develop, lease, manage and dispose of healthcare real estate, and provide financing to healthcare providers. At March 31, 2018, our portfolio of investments, including properties in our unconsolidated joint ventures, consisted of interests in 833 facilities.
Purpose	HCPI/Utah II, LLC's purpose is to acquire, own, manage, operate, maintain, improve, expand, redevelop, encumber, sell or otherwise dispose of the properties owned by it and any other properties acquired by it, and to invest and ultimately distribute the funds obtained from owning, operating or disposing of such properties.	Under our charter, we may engage in the ownership of real property and any other lawful act or activity for which corporations may be organized under Maryland law.

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	HCPI/Utah II, LLC / Delaware Law	HCP / Maryland Law
Additional Equity	See "Operating Agreement Capital Contributions" above.	Our board of directors may, in its discretion, authorize the issuance of additional shares of common stock or preferred stock; provided that the total number of shares issued cannot exceed the authorized number of shares of stock set forth in our charter.
Borrowing Policies	The operating agreement provides that HCPI/Utah II, LLC is permitted to incur or assume debt, including debt to us or our affiliates. HCPI/Utah II, LLC will be required to pay to the non-managing members a make-whole payment in an amount equal to the aggregate federal, state and local income taxes incurred by the non-managing members if it fails to maintain certain indebtedness during the Tax Protection Period, as described above under "Operating Agreement Tax Protection Period."	We are not restricted under our charter or bylaws from incurring debt.
Management Control	All management powers over the business and affairs of HCPI/Utah II, LLC are vested in us as the managing member. No non-managing member has any right to participate in or exercise control or management power over the business and affairs of HCPI/Utah II, LLC, except for actions which require the consent of the holders of a majority of the non-managing member units held by non-managing members. See "Operating Agreement Management" and " Voting Rights."	Our board of directors has exclusive control over our business affairs subject only to the applicable provisions of Maryland law and the provisions in our charter and bylaws.
Duties of Managing Members and Directors	Under Delaware law, we, as managing member of HCPI/Utah II, LLC, are accountable to HCPI/Utah II, LLC as a fiduciary and, consequently, are required to exercise good faith and integrity in all of our dealings with respect to HCPI/Utah II, LLC's affairs.	Under Maryland law, directors must act in good faith, in a manner that they reasonably believe to be in the best interests of the corporation, and with the care that an ordinarily prudent person in a like position would use under similar circumstances. Directors who act in such a manner generally have no liability in any action based on an act of the director. Under Maryland law, an act of a director is generally presumed to be in accordance with such standards.

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	HCPI/Utah II, LLC / Delaware Law	HCP / Maryland Law
Indemnification and Management Liability	See "Operating Agreement Indemnification and Management Liability."	Our charter contains a provision which eliminates the liability of directors and officers to us and our stockholders for money damages to the fullest extent permitted by Maryland law. Neither the provisions of our charter nor Maryland law limit the ability of us or our stockholders to obtain other relief, such as injunction or rescission. Our bylaws provide for indemnification of directors and officers to the fullest extent permitted by Maryland law. See "Certain Provisions of Maryland Law and HCP's Charter and Bylaws."
Anti-Takeover Provisions	Except in limited circumstances (see " Voting Rights"), we have exclusive management power over the business and affairs of HCPI/Utah II, LLC. Accordingly, we have the ability to determine whether HCPI/Utah II, LLC engages in a merger transaction or other business combination. We may not be removed as managing member by the other members without our consent. During the Tax Protection Period HCPI/Utah II, LLC will be required to pay to specified non-managing members a make-whole payment if we cause HCPI/Utah II, LLC to merge with another entity, sell all or substantially all of its assets or reclassify its outstanding equity interests (subject to limited exceptions) without the prior consent of the holders of a majority of the non-managing member units held by non-managing members. See "Operating Agreement Tax Protection Period." These limitations may have the effect of hindering the ability of HCPI/Utah II, LLC to enter into business combinations.	Our charter and bylaws contain a number of provisions that may delay or discourage an unsolicited proposal for the acquisition of our company or the removal of incumbent management. These provisions include: authorized capital stock that may be issued as preferred stock in the discretion of our board of directors, with voting or other rights superior to the common stock; provisions designed to avoid concentration of share ownership in a manner that would jeopardize our status as a REIT under the Internal Revenue Code; super-majority stockholder vote for certain business combinations; and the advance notice provisions of our bylaws. Maryland law also contains provisions which could delay, defer or prevent a change of control or other transaction. See "Certain Provisions of Maryland Law and HCP's Charter and Bylaws."

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	HCPI/Utah II, LLC / Delaware Law	HCP / Maryland Law
	A non-managing member generally may not transfer all or any portion of its membership interest in HCPI/Utah II, LLC without first offering that membership interest to us and otherwise obtaining our consent. Accordingly, we may elect to exercise our right of first refusal to prevent a membership interest from being transferred to a particular third party. Unless we consent to the admission of a transferee of a membership interest as a substitute member of HCPI/Utah II, LLC, the transferee is not entitled to vote on any matter submitted to the members for their approval. The ability of a unitholder to transfer its membership interest in HCPI/Utah II, LLC may be further hindered by other factors. See "Operating Agreement Transferability of Interests."	Our bylaws contain a provision exempting acquisitions of shares of our stock from the Maryland control share acquisition statute. In addition, our board of directors has adopted a resolution prohibiting us from electing to be subject to the provisions of the Maryland unsolicited takeover statute relating to the classification of the board unless such election is first approved by our stockholders by the affirmative vote of a majority of all the votes entitled to be cast on the matter.
Voting Rights	Under the operating agreement, the non-managing members have voting rights only as to specified matters including: amending the operating agreement, except in limited circumstances; and those other actions discussed above under "Operating Agreement Management." The non-managing members generally do not otherwise have the right to vote on decisions relating to the operation or management of HCPI/Utah II, LLC.	Maryland law requires that major corporate transactions, including most amendments to our charter, must have stockholder approval as described below. All shares of common stock have one vote per share. Our charter permits our board of directors to classify and issue preferred stock in one or more series having voting power which may differ from that of the common stock. See "Description of Capital Stock." Our bylaws generally permit any stockholder or group of up to 25 stockholders who have maintained continuous qualifying ownership of 3% or more of our outstanding common stock for at least the previous three years to include up to a specified number of director nominees in our proxy materials for an annual meeting of stockholders. The maximum number of stockholder nominees permitted under the proxy access provisions of our bylaws will not exceed the greater of (i) two or (ii) 20% of the directors in office as of the last day a notice of nomination may be timely received.

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The following is a comparison of the voting rights of the non-managing members of HCPI/Utah II, LLC and of our stockholders as they relate to major transactions:

	HCPI/Utah II, LLC / Delaware Law	HCP / Maryland Law
A. Amendment of Organizational Documents	Amendments to the operating agreement may be proposed by us as managing member or by holders of a majority of the non-managing member units held by non-managing members. To be effective, amendments must be approved by the holders of a majority of the outstanding units, subject to certain exceptions. In addition, certain amendments must be approved by each non-managing member that would be adversely affected by such amendment. We may amend the operating agreement without the consent of the non-managing members if the purpose or the effect of such amendment is to make administrative or inconsequential changes or comply with any federal or state agency rulings, guidelines directives or laws, or as are necessary for us to maintain our status as a REIT. See "Operating Agreement Management."	Under our charter, most amendments to our charter must be approved by our board of directors and by the affirmative vote of at least a majority of the votes entitled to be cast by our stockholders on the matter. The affirmative vote of holders of at least two-thirds of our voting stock is required to repeal or amend the provisions of the charter relating to: business combinations; the removal and setting of the minimum and maximum number of our directors; and certain limitations on ownership of our voting capital stock. See "Description of Capital Stock." Provisions of our bylaws regarding the number of directors, in certain circumstances, and the vote required to amend the bylaws may be amended only by unanimous vote of the board of directors or by the affirmative vote of not less than 90% of all of the votes entitled to be cast by our stockholders on the matter. Other amendments to our bylaws require the affirmative vote of a majority of the entire board of directors or the affirmative vote of a majority of all of the votes entitled to be cast by our stockholders on the matter.
B. Dissolution	As managing member, we may dissolve HCPI/Utah II, LLC without any vote or approval of non-managing members. However, during the Dissolution Protection Period, HCPI/Utah II, LLC will be required to pay a make-whole payment to specified non-managing members if a dissolution occurs without the consent of a majority in interest of the	Our dissolution must be approved by our board of directors by a majority vote of the entire board and by our stockholders by the affirmative vote of a majority of all the votes entitled to be cast by our stockholders on the matter.

non-managing members.

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	HCPI/Utah II, LLC / Delaware Law	HCP / Maryland Law
C. Sale of Assets; Merger; Transfer of Properties	During the Tax Protection Period HCPI/Utah II, LLC will be required to pay to specified non-managing members a make-whole payment unless we obtain the consent of the holders of a majority in interest of the non-managing members before we:	Our charter requires that, subject to certain exceptions, business combinations between us and a beneficial holder of 10% or more of our outstanding voting stock be approved by the affirmative vote of at least 90% of our outstanding voting shares. See "Description of Capital Stock Business Combination Provisions" and "Certain Provisions of Maryland Law and HCP's Charter and Bylaws."
	cause HCPI/Utah II, LLC to merge with another entity, sell all or substantially all of its assets or reclassify its outstanding equity interests, subject to limited exceptions; or	Generally, mergers, consolidations and sales of all or substantially all of our assets must be approved by our stockholders by the affirmative vote of a majority of all votes entitled to be cast on the matter. No approval of our stockholders is required for any sale of less than substantially all of our assets which is not a business combination.
	sell certain of HCPI/Utah II, LLC's real properties. See "Operating Agreement Tax Protection Period."	
Compensation, Fees and Distributions	We do not receive any compensation for our services as managing member of HCPI/Utah II, LLC but are reimbursed for expenses.	Our officers and outside directors receive compensation for their services as more fully described in the compensation information incorporated by reference in our Annual Report on Form 10-K, which is incorporated by reference into this prospectus supplement and the accompanying prospectus.
Liability of Investors	Under the operating agreement and applicable Delaware law, the liability of the non-managing members for the debts and obligations of HCPI/Utah II, LLC is generally limited to the amount of their investment in HCPI/Utah II, LLC, together with their interest in any undistributed income, if any.	Under Maryland law, our stockholders are not personally liable for our debts or obligations solely as a result of their status as stockholders.

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	HCPI/Utah II, LLC / Delaware Law	HCP / Maryland Law
Liquidity	Except in limited circumstances, a non-managing member may not transfer all or any portion of its membership interest in HCPI/Utah II, LLC without first offering that membership interest to us and otherwise obtaining our consent. HCP has the right to receive an opinion of counsel in connection with the transfer of non-managing member units to the effect that the transfer may be effected without registration under the Securities Act and will not otherwise violate any applicable federal or state securities laws or regulations. Also, see "Operating Agreement Transferability of Interests" and " Anti-Takeover Provisions."	Shares of common stock issued pursuant to this prospectus supplement will be freely transferable, subject to prospectus delivery and other requirements of the Securities Act, and the transfer and ownership restrictions in our charter. Our common stock is listed on the New York Stock Exchange.

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	HCPI/Utah II, LLC / Delaware Law	HCP / Maryland Law
Taxes	HCPI/Utah II, LLC itself is generally not subject to federal income taxes. Instead, each holder of units includes its allocable share of HCPI/Utah II, LLC's taxable income or loss in determining its individual federal income tax liability. Cash distributions from HCPI/Utah II, LLC generally are not taxable to a holder of non-managing member units except to the extent they exceed such holder's basis in its interest in HCPI/Utah II, LLC (which will include such holder's allocable share of HCPI/Utah II, LLC's debt). Income and loss from HCPI/Utah II, LLC generally are subject to the "passive activity" limitations. Under the "passive activity" limitations, income and loss from HCPI/Utah II, LLC that is considered "passive income" generally can be offset against income and loss from other investments that constitute "passive activities." Holders of units are required, in some cases, to file state income tax returns and/or pay state income taxes in the states in which HCPI/Utah II, LLC owns property, even if they are not residents of those states.	As long as we qualify as a REIT, distributions out of our current or accumulated earnings and profits, other than capital gain dividends discussed below, generally will constitute dividends taxable to our taxable U.S. stockholders as ordinary income and will not be eligible for the dividends-received deduction in the case of U.S. stockholders that are corporations. In addition, these distributions generally will not be eligible for treatment as "qualified dividend income" for individual U.S. stockholders. However, under the TCJA (as defined below), for taxable years beginning after December 31, 2017 and before January 1, 2026, stockholders that are individuals, trusts, or estates are generally entitled to deduct up to 20% of certain qualified business income, including "qualified REIT dividends," subject to certain limitations. Distributions that we properly designate as capital gain dividends will be taxable to our taxable U.S. stockholders as gain from the sale or disposition of a capital asset, to the extent that such gain does not exceed our actual net capital gain for the taxable year. Distributions in excess of current and accumulated earnings and profits will be treated as a nontaxable return of capital to the extent of a stockholder's adjusted basis in its common stock, with the excess taxed as capital gain. Distributions we make and gain arising from the sale or exchange by a U.S. stockholder of our shares will not be treated as passive activity income. As a result, U.S. stockholders generally will not be able to apply any "passive losses" against this income or gain. Stockholders who are individuals generally will not be required to file state income tax returns and/or pay state income taxes outside of their state of residence with respect to our operations and distributions. We may be required to pay state income taxes in various states.

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CERTAIN PROVISIONS OF MARYLAND LAW AND HCP'S CHARTER AND BYLAWS

The following description summarizes certain provisions of Maryland law and of our charter and bylaws. This summary is not complete and is subject to, and is qualified in its entirety by reference to, our charter, our bylaws and applicable provisions of the MGCL. For a complete description, we refer you to the MGCL, our charter and our bylaws.

Election of Directors

Our bylaws provide that our board may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than three nor more than eleven. Our bylaws also provide for the election of directors, in uncontested elections, by a majority of the votes cast. In contested elections, the election of directors shall be by a plurality of the votes cast. Holders of common stock have no right to cumulative voting for the election of directors. Consequently, at each annual meeting of stockholders, the holders of a majority of the outstanding shares of our common stock can elect all of our directors. A vacancy resulting from an increase in the number of directors may be filled by a majority vote of the entire board or by the affirmative vote of the holders of a majority of our shares then entitled to vote at an election of directors. Other vacancies may be filled by the vote of a majority of the remaining directors.

Removal of Directors

Our charter provides that a director of ours may be removed by the affirmative vote of the holders of two-thirds of the outstanding shares of our voting stock or by a unanimous vote of all other directors. Our stockholders may elect a successor to fill any vacancy which results from the removal of a director.

Business Combinations

Under Maryland law, "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 ten percent or more of the voting power of the corporation's shares; or
- an affiliate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner of ten percent or more of the voting power of the then outstanding voting stock of the corporation.

After the five-year prohibition, any business combination between the Maryland corporation and an interested stockholder generally must be recommended by the board 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 which are held by an affiliate or associate of the interested stockholder.

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These super-majority vote requirements do not apply if the corporation's common stockholders receive a minimum price, as defined under Maryland law, for their shares in the form of cash or other consideration in the same form as previously paid by the interested stockholder for its shares. None of these provisions of Maryland law will apply, however, to business combinations that are approved or exempted by the board of the corporation prior to the time that the interested stockholder becomes an interested stockholder.

In addition to the restrictions on business combinations provided under Maryland law, our charter also contains restrictions on business combinations. See "Description of Capital Stock Business Combination Provisions."

Control Share Acquisitions

Maryland law provides that holders of "control shares" of a Maryland corporation acquired in a "control share acquisition" have no voting rights with respect to the control shares except to the extent approved by a vote of two-thirds of the votes entitled to be cast on the matter. Shares of stock 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 shares of stock for 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 the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. Except as otherwise specified in the statute, a "control share acquisition" means the acquisition of control shares.

Once a person who has made or proposes to make a control share acquisition has undertaken to pay expenses and satisfied other conditions, the person may compel the board to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. 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 be able to redeem any or all of the control shares for fair value, except for control shares for which voting rights previously have 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 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 control 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 these appraisal rights may not be less than the highest price per share paid by the acquiror in the control share acquisition. Some of the limitations and restrictions otherwise applicable to the exercise of dissenters' rights do not apply in the context of a control share acquisition.

The control share acquisition statute does not apply to shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction or to acquisitions approved or exempted by the charter or bylaws of the corporation. Our bylaws contain a provision exempting acquisitions of shares of our stock from the control share acquisition statute. However, our board may amend our bylaws in the future to repeal or modify this exemption, in which case any control shares of our company acquired in a control share acquisition will be subject to the control share acquisition statute.

Unsolicited Takeovers

Under Maryland law, a Maryland corporation with a class of equity securities registered under the Exchange Act and at least three independent directors may elect to be subject to certain statutory provisions relating to unsolicited takeovers which, among other things, would automatically classify the board into three classes with staggered terms of three years each and vest in the board the exclusive right to determine the number of directors and the exclusive right, by the affirmative vote of a majority of the remaining directors, to fill vacancies on the board, even if the remaining directors do not constitute a quorum. These statutory provisions relating to unsolicited takeovers also provide that any director elected to fill a vacancy shall hold office for the remainder of the full term of the class of directors in which the vacancy occurred, rather than the next annual meeting of directors as would otherwise be the case, and until his successor is elected and qualified.

Our board of directors has adopted a resolution prohibiting us from electing to be subject to the provisions of the unsolicited takeover statute relating to the classification of the board unless such election is first approved by our stockholders by the affirmative vote of a majority of all the votes entitled to be cast on the matter. An election to be subject to any or all of the other foregoing statutory provisions may be made in our charter or bylaws, or by resolution of our board without stockholder approval. Any such statutory provision to which we elect to be subject will apply even if other provisions of Maryland law or our charter or bylaws provide to the contrary. Neither our charter nor our bylaws provides that we are subject to any of the foregoing statutory provisions relating to unsolicited takeovers. However, our board could adopt a resolution, without stockholder approval, to elect to become subject to some or all of these statutory provisions except the statutory provisions relating to the classification of the board.

If we made an election, upon stockholder approval of such election, to be subject to the statutory provisions relating to the classification of the board and our board were divided into three classes with staggered terms of office of three years each, the classification and staggered terms of office of our directors would make it more difficult for a third party to gain control of our board since at least two annual meetings of stockholders, instead of one, generally would be required to effect a change in the majority of our board.

Amendments to the Charter

Provisions of our charter on business combinations, the number of directors and certain ownership restrictions may be amended only if approved by our board and by our stockholders by the affirmative vote of two-thirds of all of the votes entitled to be cast by our stockholders on the matter. Other amendments to our charter require approval by our board and approval by our stockholders by the affirmative vote of a majority of all the votes entitled to be cast by our stockholders on the matter.

Amendment to the Bylaws

Provisions of our bylaws on the number of directors, in certain circumstances, and the vote required to amend the bylaws may be amended only by unanimous vote of the board or by the affirmative vote of not less than 90% of all of the votes entitled to be cast by our stockholders on the matter. Other amendments to our bylaws require the affirmative vote of a majority of the entire board

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or the affirmative vote of a majority of all of the votes entitled to be cast by our stockholders on the matter.

Dissolution of HCP, Inc.

Our dissolution must be approved by our board by a majority vote of the entire board and by our stockholders by the affirmative vote of a majority of all the votes entitled to be cast by our stockholders on the matter.

Advance Notice of Director Nominations and New Business; Procedures of Special Meetings Requested by Stockholders

Our bylaws provide that nominations of persons for election to the board and the proposal of business to be considered by stockholders at the annual or special meeting of stockholders may be made only:

- pursuant to our notice of the meeting;
- by or at the direction of the board; or
- by a stockholder who was a stockholder at the time the notice of meeting was given and is entitled to vote at the meeting and who has complied with the advance notice procedures, including the minimum time period, described in the bylaws.

Our bylaws also provide that only the business specified in our notice of meeting may be brought before a special meeting of stockholders. Our bylaws provide that our stockholders have the right to call a special meeting only upon the written request of the stockholders holding in the aggregate not less than 50% of the outstanding shares entitled to vote on the business proposed to be transacted at such meeting.

Proxy Access

Our bylaws permit any stockholder or group of up to 25 stockholders (counting as one stockholder, for purposes of the aggregation limit, any two or more funds that are part of the same qualifying fund group, as such term is defined in our bylaws) who have maintained continuous qualifying ownership of 3% or more of our outstanding common stock for at least the previous three years to include up to a specified number of director nominees in our proxy materials for an annual meeting of stockholders. A nominating stockholder is considered to own only the shares for which the stockholder possesses the full voting and investment rights and the full economic interest (including the opportunity for profit and risk of loss). Under this provision, borrowed or hedged shares do not count as "owned" shares. Furthermore, to the extent not otherwise excluded pursuant to this definition of ownership, a nominating stockholder's "short position" as defined in Rule 14e-4 under the Exchange Act is deducted from the shares otherwise "owned." Loaned shares are counted toward the ownership requirement, provided that certain recall requirements described in our bylaws are met. If a group of stockholders is aggregating its shareholdings in order to meet the 3% ownership requirement, the ownership of the group will be determined by aggregating the lowest number of shares continuously owned by each member during the three-year holding period.

The maximum number of stockholder nominees permitted under the proxy access provisions of our bylaws shall not exceed the greater of (i) two or (ii) 20% of the directors in office as of the last day a notice of nomination may be timely received. If the 20% calculation does not result in a whole number, the maximum number of stockholder nominees is the closest whole number below 20%. If one or more vacancies occurs for any reason after the nomination deadline and our board decides to reduce the size of our board in connection therewith, the 20% calculation will be applied to the reduced size of the board, with the potential result that a stockholder nominee may be disqualified. Stockholder-nominated

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candidates whose nomination is withdrawn or whom the board determines to include in our proxy materials as board-nominated candidates will be counted against the 20% maximum. In addition, any director in office as of the nomination deadline who was included in our proxy materials as a stockholder nominee for either of the two preceding annual meetings and whom our board decides to renominate for election to the board also will be counted against the 20% maximum.

Notice of a nomination pursuant to the proxy access provisions of our bylaws must be received no earlier than 150 days and no later than 120 days before the anniversary of the date that we distributed our proxy statement for the previous year's annual meeting of stockholders. The proxy access provisions of our bylaws require certain disclosure, representations and agreements to be provided or made by nominating stockholders and contain certain other procedural provisions.

A stockholder nominee will not be eligible for inclusion in our proxy materials if any stockholder has nominated a person pursuant to the advance notice provision of our bylaws, if the nominee would not be independent, if the nominee's election would cause us to violate our bylaws, our charter or any applicable listing standards, laws, rules or regulations, if the nominee is or has been an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, within the past three years, or if the nominee or the stockholder who nominated him or her has provided false and misleading information to us or otherwise breached any of its or their obligations, representations or agreements under the proxy access provisions of our bylaws. Stockholder nominees who are included in our proxy materials but subsequently withdraw from or become ineligible or unavailable for election at the meeting or do not receive at least 10% of the votes cast in the election will be ineligible for nomination under the proxy access provisions of our bylaws for the next two annual meetings. A nomination made under the proxy access provisions of our bylaws will be disregarded at the annual meeting under certain circumstances described in our bylaws.

Anti-Takeover Effect of Provisions of Maryland Law and of the Charter and Bylaws

The provisions in the charter on removal of directors and business combinations, the business combinations and control share acquisition provisions of Maryland law, the unsolicited takeover provisions of Maryland law (if we elect to become subject to such provisions) and the provisions of our bylaws relating to advance notice, proxy access and stockholder-requested special meetings may delay, defer or prevent a change of control or other transaction in which holders of some, or a majority, of the common stock might receive a premium for their common stock over the then prevailing market price or which such holders might believe to be otherwise in their best interests.

Limitation of Liability and Indemnification

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages. However, a Maryland corporation may not limit liability resulting from actual receipt of an improper benefit or profit in money, property or services. Also, liability resulting from active and deliberate dishonesty may not be eliminated if a final judgment establishes that the dishonesty is material to the cause of action. Our charter contains a provision which limits the liability of directors and officers for money damages to the maximum extent permitted by Maryland law. This provision does not limit our right or that of our stockholders to obtain equitable relief, such as an injunction or rescission.

Our bylaws obligate us, to the maximum extent permitted by Maryland law, to indemnify and, without requiring a preliminary determination as to the ultimate entitlement to indemnification, to pay or reimburse reasonable expenses before final disposition of a proceeding to:

- any present or former director or officer who is made a party to the proceeding by reason of his service in that capacity; or

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- any individual who, while one of our directors or officers and at our request, serves or has served another corporation, partnership, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, partner or trustee of such corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise and who is made a party to the proceeding by reason of his service in that capacity.

The bylaws authorize us, with the approval of our board, to provide indemnification and advancement of expenses to our agents and employees.

Unless limited by a corporation's charter, Maryland law requires a corporation to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he is made a party by reason of his service in that capacity, or in the defense of any claim, issue or matter in the proceeding. Our charter does not alter this requirement.

Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against:

- judgments;
- penalties;
- fines;
- settlements; and
- reasonable expenses actually incurred by them in connection with any proceeding to which they may be made a party by reason of their service in those or other capacities.

Maryland law does not permit a corporation to indemnify its present and former directors and officers if it is established that:

- the act or omission of the director or officer was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty;
- the director or officer actually received an improper personal benefit in money, property or services; or
- in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

Under Maryland law, a Maryland corporation generally may not indemnify for an adverse judgment in a suit by or in the right of the corporation. Also, a Maryland corporation generally may not indemnify for a judgment of liability on the basis that personal benefit was improperly received. In either of these cases, a Maryland corporation may indemnify for expenses only if a court so orders.

Maryland law permits a corporation to advance reasonable expenses to a director or officer. First, however, the corporation must receive a written affirmation by the director or officer of his good faith belief that he has met the standard of conduct necessary for indemnification by the corporation. The corporation must also receive a written undertaking, either by the director or officer or on his behalf, to repay the amount paid or reimbursed by the corporation if it shall ultimately be determined that the standard of conduct was not met. The termination of any proceeding by conviction, or upon a plea of nolo contendere or its equivalent, or an entry of any order of probation prior to judgment, creates a rebuttable presumption that the director or officer did not meet the requisite standard of conduct required for indemnification to be permitted.

It is the position of the Commission that indemnification of directors and officers for liabilities arising under the Securities Act is against public policy and is unenforceable pursuant to Section 14 of the Securities Act.

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UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

The following is a summary of certain U.S. federal income tax considerations generally applicable to (i) the tender of units in exchange for shares of common stock or the redemption of units for cash and (ii) the ownership and disposition of our common stock, which may be acquired upon an exchange of units. This summary does not purport to be a complete analysis of all of the potential tax considerations relating thereto. This summary is based on current law, is for general information only and is not tax advice. As used in this section, references to "HCP," "the Company," "we," "us" or "our," mean only HCP, Inc., and not its subsidiaries, except as otherwise indicated.

The information in this summary is based on:

- the Internal Revenue Code;
- current, temporary and proposed Treasury Regulations promulgated under the Internal Revenue Code;
- the legislative history of the Internal Revenue Code;
- current administrative interpretations and practices of the IRS; and
- court decisions;

in each case, as of the date of this prospectus supplement. In addition, the administrative interpretations and practices of the IRS include its practices and policies as expressed in private letter rulings that are not binding on the IRS except with respect to the particular taxpayers who requested and received those rulings. Future legislation, Treasury Regulations, administrative interpretations and practices and/or court decisions may change or adversely affect the tax considerations described in this prospectus supplement. Any such change could apply retroactively to transactions preceding the date of the change. We have not requested and do not intend to request a ruling from the IRS that we qualify as a REIT or concerning the treatment of our common stock, and the statements in this prospectus supplement are not binding on the IRS or any court. Thus, we can provide no assurance that the tax considerations contained in this summary will not be challenged by the IRS or will be sustained by a court if so challenged.

This summary assumes that our common stock is held as a "capital asset" (generally, property held for investment). Your tax treatment will vary depending on your particular situation. This discussion does not purport to deal with all aspects of taxation that may be relevant to holders of our common stock in light of their personal investment or tax circumstances, or to holders who receive special treatment under the U.S. federal income tax laws except to the extent discussed specifically herein. Holders of common stock offered by this prospectus supplement receiving special treatment include, without limitation:

- banks, insurance companies or other financial institutions;
- brokers or dealers in securities or commodities;
- traders in securities;
- expatriates and certain former citizens or long-term residents of the U.S.;
- tax-exempt organizations;

persons who are subject to the alternative minimum tax;

persons who hold our common stock as a position in a "straddle" or as part of a "hedging," "conversion" or other risk reduction transaction;

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- persons deemed to sell our common stock under the constructive sale provisions of the Internal Revenue Code;
- U.S. persons that have a functional currency other than the U.S. dollar;
- except to the extent specifically discussed below, non-U.S. holders (as defined below); or
- persons that are S corporations, REITs, regulated investment companies, partnerships or other pass-through entities.

In addition, this discussion does not address any state, local or foreign tax consequences associated with the ownership of our common stock or our election to be taxed as a REIT.

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

- the acquisition, ownership and sale or other disposition of our common stock, including the U.S. federal, state, local, foreign and other tax consequences;
- our election to be taxed as a REIT for U.S. federal income tax purposes; and
- potential changes in applicable tax laws.

Taxation of an Exchange or Redemption of Units

In General

If HCP, Inc. acquires a unit in exchange for shares of common stock or redeems a unit for cash, a tendering holder of units will recognize gain or loss in an amount equal to the difference between (i) the amount realized in the transaction (i.e., the sum of the cash and the fair market value of any shares of common stock plus the amount of the partnership liabilities allocable to such tendered unit at such time) and (ii) the holder's tax basis in the unit disposed of, which tax basis will be adjusted for the unit's allocable share of HCPI/Utah II, LLC's income, gain or loss for the taxable year of disposition. The tax liability resulting from the gain recognized on the disposition of a unit could exceed the amount of cash and the fair market value of any shares of common stock received in exchange therefor. The use of any loss recognized upon an exchange is subject to a number of limitations set forth in the Internal Revenue Code. A holder's adjusted tax basis in any of our common stock received in exchange for units will be the fair market value of those shares on the date of the exchange. Similarly, a holder's holding period in such shares will begin on the date of the exchange.

If HCPI/Utah II, LLC redeems a tendered unit for cash (which is not contributed by us to effect the redemption), the tax consequences generally would be the same as described in the preceding paragraph, except that if HCPI/Utah II, LLC redeems less than all of a holder's units, the holder would recognize no taxable loss and would recognize taxable gain only to the extent that the cash, plus the amount of HCPI/Utah II, LLC liabilities allocable to the redeemed units, exceeded the holder's adjusted tax basis in all of such holder's units immediately before the redemption.

Disguised Sales

Under the Internal Revenue Code, a transfer of property by a partner to a partnership followed by a related transfer by the partnership of money or other property to the partner is treated as a disguised sale if (i) the second transfer would not have occurred but for the first transfer and (ii) the second transfer is not dependent on the entrepreneurial risks of the partnership's operations. In a disguised sale, the partner is treated as if he or she sold the contributed property to the partnership as of the date the property was contributed to the partnership. Transfers of money or other property between a partnership and a partner that are made within two years of each other, including redemptions of units made within two years of a contribution of property by a holder of units to HCPI/Utah II, LLC, must

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be reported to the IRS and are presumed to be a disguised sale unless the facts and circumstances clearly establish that the transfers do not constitute a sale.

A redemption of units by HCPI/Utah II, LLC within two years of the date of a contribution of property by a holder of units to HCPI/Utah II, LLC may be treated as a disguised sale. If this treatment were to apply, such holder of units would be treated for U.S. federal income tax purposes as if, on the date of its contribution of property to HCPI/Utah II, LLC, HCPI/Utah II, LLC transferred to such holder an obligation to pay such holder the redemption proceeds. In that case, the holder of units would be required to recognize gain on the disguised sale in such earlier year.

Character of Gain or Loss Recognized

Except as described below, the gain or loss that a holder of units recognizes on a sale, exchange or redemption of a tendered unit will be treated as a capital gain or loss and will be treated as long-term capital gain or loss if the holding period for the unit exceeds twelve months. Long-term capital gains recognized by individuals and certain other noncorporate taxpayers generally will be subject to a maximum U.S. federal income tax rate of 20%. If the amount realized with respect to a unit that is attributable to a holder's share of "unrealized receivables" of HCPI/Utah II, LLC exceeds the tax basis attributable to those assets, such excess will be treated as ordinary income. Among other things, unrealized receivables include depreciation recapture for certain types of property. In addition, the maximum U.S. federal income tax rate applicable to persons who are noncorporate taxpayers for net capital gains attributable to the sale of depreciable real property (which may be determined to include an interest in a partnership such as HCPI/Utah II, LLC) held for more than twelve months is currently 25% (rather than 20%) to the extent of previously claimed depreciation deductions that would not be treated as unrealized receivables.

Passive Activity Losses

The passive activity loss rules of the Internal Revenue Code limit the use of losses derived from passive activities, which generally include investments in limited liability company interests such as the units. You are urged to consult your tax advisor concerning whether, and the extent to which, you have available suspended passive activity losses from HCPI/Utah II, LLC or other investments that may be used to offset gain from the sale, exchange or redemption of your units tendered for redemption.

Tax Reporting

If a unit is exchanged or redeemed, the holder must report the transaction by filing a statement with its U.S. federal income tax return for the year of the disposition which provides certain required information to the IRS. To prevent the possible application of backup withholding with respect to payment of the consideration, a holder of units must provide HCP, Inc. or HCPI/Utah II, LLC with its correct taxpayer identification number.

Foreign Offerees

Gain recognized by a foreign person on a sale, exchange or redemption of a unit tendered for redemption will be subject to U.S. federal income tax under the Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA"). If you are a foreign person, HCP, Inc. or HCPI/Utah II, LLC will be required, under the FIRPTA provisions of the Internal Revenue Code, to deduct and withhold 15% of the amount realized by you on the disposition, and you will be required to file a United States federal income tax return to report your gain and pay any additional tax due. The amount withheld would be creditable against your U.S. federal income tax liability and, if the amount withheld exceeds your actual tax liability, you could claim a refund from the IRS.

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Taxation of the Company

We elected to be taxed as a REIT under Sections 856 through 860 of the Internal Revenue Code, commencing with our taxable year ended December 31, 1985. We believe we have been organized and have operated in a manner which allows us to qualify for taxation as a REIT under the Internal Revenue Code commencing with our taxable year ended December 31, 1985. We currently intend to continue to be organized and operate in this manner. However, qualification and taxation as a REIT depend upon our ability to meet the various qualification tests imposed under the Internal Revenue Code, including through actual annual operating results, asset composition, distribution levels and diversity of stock ownership. Accordingly, no assurance can be given that we have been organized and have operated, or will continue to be organized and operate, in a manner so as to qualify or remain qualified as a REIT. See " Failure to Qualify."

The sections of the Internal Revenue Code and the corresponding Treasury Regulations that relate to the qualification and taxation as a REIT are highly technical and complex. The following sets forth certain aspects of the sections of the Internal Revenue Code that govern the U.S. federal income tax treatment of a REIT and its stockholders. This summary is qualified in its entirety by the applicable Internal Revenue Code provisions, Treasury Regulations, and related administrative and judicial interpretations thereof. Skadden, Arps, Slate, Meagher & Flom LLP has acted as our tax counsel in connection with this prospectus supplement and our election to be taxed as a REIT.

Skadden, Arps, Slate, Meagher & Flom LLP has rendered an opinion to us to the effect that, commencing with our taxable year ended December 31, 1985, we have been organized and have operated in conformity with the requirements for qualification and taxation as a REIT, and that our proposed method of operation will enable us to continue to meet the requirements for qualification and taxation as a REIT under the Internal Revenue Code. It must be emphasized that this opinion was based on various assumptions and representations as to factual matters, including representations made by us in factual certificates provided by one or more of our officers. In addition, this opinion was based upon our factual representations set forth in this prospectus supplement. Moreover, our qualification and taxation as a REIT depend upon our ability to meet the various qualification tests imposed under the Internal Revenue Code which are discussed below, including through actual annual operating results, asset composition, distribution levels and diversity of stock ownership, all of the results of which have not been and will not be reviewed by Skadden, Arps, Slate, Meagher & Flom LLP. Accordingly, no assurance can be given that our actual results of operation for any particular taxable year have satisfied or will satisfy those requirements. See " Failure to Qualify." Further, the anticipated income tax treatment described in this prospectus supplement may be changed, perhaps retroactively, by legislative, administrative or judicial action at any time. Skadden, Arps, Slate, Meagher & Flom LLP has no obligation to update its opinion subsequent to its date.

New Tax Reform Legislation Enacted December 22, 2017

On December 22, 2017, the President signed into law H.R. 1, which is commonly referred to as the "Tax Cuts and Jobs Act of 2017" (the "TCJA"). This legislation makes many changes to the U.S. federal income tax laws that significantly impact the taxation of individuals, corporations (both non-REIT C corporations as well as corporations that have elected to be taxed as REITs), and the taxation of taxpayers with overseas assets and operations. These changes are generally effective for taxable years beginning after December 31, 2017. However, a number of changes that reduce the tax rates applicable to non-corporate taxpayers (including a new 20% deduction for qualified REIT dividends that reduces the effective rate of regular income tax on such income), and also limit the ability of such taxpayers to claim certain deductions, will expire for taxable years beginning after 2025 unless Congress acts to extend them.

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These changes will impact us and our shareholders in various ways, some of which are adverse relative to prior law, and this summary of U.S. federal income tax considerations incorporates these changes where material. To date, the IRS has issued only limited guidance with respect to certain provisions of the new law. There are numerous interpretive issues and ambiguities that will require guidance and that are not clearly addressed in the Conference Report that accompanied the TCJA. Technical corrections legislation will likely be needed to clarify certain of the new provisions and give proper effect to Congressional intent. There can be no assurance, however, that technical clarifications or other legislative changes that may be needed to prevent unintended or unforeseen tax consequences will be enacted by Congress anytime soon.

Taxation of REITs

Provided we qualify for taxation as a REIT, we generally will not be required to pay U.S. federal corporate income taxes on our REIT taxable income that is currently distributed to our stockholders. This treatment substantially eliminates the "double taxation" that ordinarily results from investment in a C corporation. A C corporation is a corporation that is generally required to pay tax at the corporate-level. We will be required to pay U.S. federal income tax, however, as follows:

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

- If we have: (a) net income from the sale or other disposition of "foreclosure property" which is held primarily for sale to customers in the ordinary course of business; or (b) other nonqualifying income from foreclosure property, we will be required to pay tax at the highest corporate rate on this income. Foreclosure property generally is defined as property we acquired through foreclosure or after a default on a loan secured by the property or a lease of the property and for which an election is in effect. See "Foreclosure Property Income."

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

- If we fail to satisfy the 75% gross income test or the 95% gross income test, as described below, but have otherwise maintained our qualification as a REIT because certain other requirements are met, we will be required to pay a tax equal to (a) the greater of (i) the amount by which 75% of our gross income exceeds the amount qualifying under the 75% gross income test and (ii) the amount by which 95% of our gross income exceeds the amount qualifying under the 95% gross income test, multiplied by (b) a fraction intended to reflect our profitability.

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

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

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

If we acquire any asset from a corporation which is or has been a C corporation in a transaction in which the basis of the asset in our hands is determined by reference to the basis of the asset in the hands of the C corporation, and we subsequently recognize gain on the disposition of the asset during the five-year period beginning on the date on which we acquired the asset, then we will be required to pay tax at the highest regular corporate tax rate on this gain to the extent of the excess of (a) the fair market value of the asset over (b) our adjusted basis in the asset, in each case determined as of the date on which we acquired the asset. The results described in this paragraph with respect to the recognition of gain assume that certain elections specified in applicable Treasury Regulations are either made or forgone by us or by the entity from which the assets are acquired, in each case, depending upon the date such acquisition occurred.

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

Certain of our subsidiaries are C corporations, including any taxable REIT subsidiary, the earnings of which will be subject to U.S. federal corporate income tax.

Requirements for Qualification as a REIT

The Internal Revenue Code defines a REIT as a corporation, trust or association:

1. that is managed by one or more trustees or directors;

2. that issues transferable shares or transferable certificates to evidence its beneficial ownership;

3. that would be taxable as a domestic corporation but for special Internal Revenue Code provisions applicable to REITs;

4. that is not a financial institution nor an insurance company within the meaning of certain provisions of the Internal Revenue Code;

5. that is beneficially owned by 100 or more persons;

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

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

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

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We believe that we have been organized, have operated and have issued sufficient shares of capital stock with sufficient diversity of ownership to allow us to satisfy conditions (1) through (7) inclusive, during the relevant time periods. In addition, our charter documents provide for restrictions regarding ownership and transfer of our shares which are intended to assist us in continuing to satisfy the ownership requirements described in conditions (5) and (6) above. These stock ownership and transfer restrictions are described in "Description of Capital Stock Transfer and Ownership Restrictions Relating to Our Common Stock," "Description of Capital Stock Business Combination Provisions" and "Description of Capital Stock Transfer and Ownership Restrictions Relating to Our Preferred Stock." These restrictions, however, may not ensure that we will, in all cases, be able to satisfy the share ownership requirements described in conditions (5) and (6) above. If we fail to satisfy these share ownership requirements, except as provided in the last sentence of this paragraph, our status as a REIT will terminate. See "Failure to Qualify." We have complied with, and believe we will continue to comply with, regulatory rules to send annual letters to certain of our stockholders requesting information regarding the actual ownership of our stock. If, however, we comply with such rules contained in applicable Treasury Regulations that require us to ascertain the actual ownership of our shares and we do not know, or would not have known through the exercise of reasonable diligence, that we failed to meet the requirement described in condition (6) above, we will be treated as having met this requirement.

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

Ownership of Interests in Partnerships

We own and operate one or more properties through partnerships and limited liability companies treated as partnerships for U.S. federal income tax purposes. Treasury Regulations provide that if we are a partner in a partnership, we will be deemed to own our proportionate share of the assets of the partnership based on our interest in partnership capital, subject to special rules relating to the 10% REIT asset test described below. Also, we will be deemed to be entitled to our proportionate share of the income of the partnership. The assets and gross income of the partnership retain the same character in our hands, including for purposes of satisfying the gross income tests and the asset tests. In addition, for these purposes, the assets and items of income of any partnership in which we own a direct or indirect interest include such partnership's share of assets and items of income of any partnership in which it owns an interest. The treatment described above also applies with respect to the ownership of interests in limited liability companies or other entities that are treated as partnerships for tax purposes.

We may have direct or indirect control of certain partnerships and limited liability companies treated as partnerships for U.S. federal income tax purposes and intend to continue to operate them in a manner consistent with the requirements for our qualification as a REIT. We are a limited partner or non-managing member in certain partnerships and limited liability companies. If any such partnership or limited liability company were to take actions that could jeopardize our status as a REIT or require us to pay tax, we may be forced to dispose of our interest in such entity. In addition, it is possible that a partnership or limited liability company could take an action which could cause us to fail a REIT income or asset test, and that we would not become aware of such action in a time frame which would allow us to dispose of our interest in the applicable entity or take other corrective action on a timely basis. In that case, unless we were entitled to relief, as described below, we would fail to qualify as a REIT.

Treasury Regulations provide that for U.S. federal income tax purposes, a domestic business entity not organized or otherwise required to be treated as a corporation (an "eligible entity") may elect to be taxed (i) as a corporation or as a partnership if it has two or more members and (ii) as a corporation or as a disregarded entity if it has only one member. With the exception of certain limited

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liability companies that have elected to be treated as corporations and have also either elected to be treated as REITs or elected with us to be treated as taxable REIT subsidiaries, the partnerships and limited liability companies in which we own an interest intend to claim classification as partnerships or disregarded entities under these Treasury Regulations. As a result, we believe that these partnerships and limited liability companies will be classified as partnerships or disregarded entities for U.S. federal income tax purposes.

If a partnership or limited liability company in which we own an interest, or one or more of its subsidiary partnerships or limited liability companies, were treated as a corporation for U.S. federal income tax purposes, it would be subject to an entity-level tax on its income. Such treatment would change the character of our assets and items of gross income and could prevent us from satisfying the REIT asset tests and possibly the REIT income tests. See " Taxation of the Company Asset Tests" and " Taxation of the Company Income Tests." This, in turn, could prevent us from qualifying as a REIT. See " Failure to Qualify" for a discussion of the effect of our failure to meet these tests. In addition, a change in the tax status of one or more of the partnerships or limited liability companies in which we own an interest might be treated as a taxable event. If so, we might incur a tax liability without any related cash distributions.

Allocations of Income, Gain, Loss and Deduction

A partnership or limited liability company agreement generally will determine the allocation of income and losses among partners or members. These allocations, however, will be disregarded for tax purposes if they do not comply with the provisions of Section 704(b) of the Internal Revenue Code and the related Treasury Regulations. Generally, Section 704(b) of the Internal Revenue Code and the related Treasury Regulations require that partnership and limited liability company allocations respect the economic arrangement of the partners or members. If an allocation is not recognized for U.S. federal income tax purposes, the relevant item will be reallocated according to the partners' or members' interests in the partnership or limited liability company, as the case may be. This reallocation will be determined by taking into account all of the facts and circumstances relating to the economic arrangement of the partners or members with respect to such item. The allocations of taxable income and loss in each of the entities treated as partnerships in which we own an interest are intended to comply with the requirements of Section 704(b) of the Internal Revenue Code and the applicable Treasury Regulations.

Tax Allocations with Respect to the Properties

Under Section 704(c) of the Internal Revenue Code, income, gain, loss and deduction attributable to appreciated or depreciated property that is contributed to a partnership or limited liability company in exchange for an interest in the partnership or limited liability company must be allocated in a manner so that the contributing partner or member is charged with the unrealized gain or benefits from the unrealized loss associated with the property at the time of the contribution. The amount of the unrealized gain or unrealized loss generally is equal to the difference between the fair market value or book value and the adjusted tax basis of the contributed property at the time of contribution. These allocations are solely for U.S. federal income tax purposes and do not affect the book capital accounts or other economic or legal arrangements among the partners or members. Some of the partnerships and/or limited liability companies in which we own an interest were formed by way of contributions of appreciated property. The relevant partnership and/or limited liability company agreements require that allocations be made in a manner consistent with Section 704(c) of the Internal Revenue Code. This could cause us to be allocated lower amounts of depreciation deductions for tax purposes than would be allocated to us if the contributed properties were acquired in a cash purchase, and could cause us to be allocated taxable gain upon a sale of the contributed properties in excess of the economic or book

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income allocated to us as a result of such sale. These adjustments could make it more difficult for us to satisfy the REIT distribution requirements.

Partnership Audit Rules

Under the Bipartisan Budget Act of 2015, Congress revised the rules applicable to U.S. federal income tax audits of partnerships (such as certain of our subsidiaries) and the collection of any tax resulting from any such audits or other tax proceedings, generally for taxable years beginning after December 31, 2017. Under the new rules, the partnership itself may be liable for