

PS BUSINESS PARKS INC/CA  
Form 424B5  
January 14, 2004  
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Filed pursuant to Rule 424(b)(5)

Registration No. 333-78627

**The information in this prospectus supplement is not complete and may be changed. A registration statement relating to these securities has been filed with the Securities and Exchange Commission and has been declared effective. This prospectus supplement and the accompanying prospectus are not an offer to sell these securities and we are not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED JANUARY , 2004**

**PROSPECTUS SUPPLEMENT**

**(To Prospectus dated June 2, 1999)**

**3,000,000 Shares**

**PS Business Parks, Inc.**

**Depository Shares Each Representing 1/1,000 of a Share of**

**% Cumulative Preferred Stock, Series H**

**Liquidation Preference Equivalent to \$25.00 Per Depository Share**

We are selling 3,000,000 depository shares each representing 1/1,000 of a share of our \_\_\_\_\_ % Cumulative Preferred Stock, Series H. The shares of Preferred Stock represented by the depository shares will be deposited with American Stock Transfer & Trust Company as depository. As a holder of depository shares, you will be entitled to all proportional rights, preferences and privileges of the Preferred Stock. We have granted the underwriters an option to purchase up to 450,000 additional depository shares to cover over allotments. The following is a summary of the Preferred Stock:

We will pay cumulative distributions on the Preferred Stock, from the date of original issuance, at the rate of \_\_\_\_\_ % of the liquidation preference per year (\$ \_\_\_\_\_ per year per depository share).

We will pay distributions on the Preferred Stock quarterly, beginning on March 31, 2004 (with the payment on that date being based pro rata on the number of days from the original issuance of the Preferred Stock).

We are not allowed to redeem the Preferred Stock before January , 2009, except in order to preserve our status as a real estate investment trust.

On and after January , 2009, we may, at our option, redeem the Preferred Stock by paying you \$25.00 per depositary share, plus any accrued and unpaid distributions.

The Preferred Stock has no stated maturity and is not subject to any sinking fund or mandatory redemption and is not convertible into any other securities.

Investors in the depositary shares representing interests in the Preferred Stock generally have no voting rights, except if we fail to pay distributions for six or more quarters or as required by law.

We intend to apply to have the depositary shares listed on the American Stock Exchange, or AMEX, under the symbol PSBPrH. If this application is approved, trading of the depositary shares on the AMEX is expected to begin within 30 days following initial delivery of the depositary shares.

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**Investing in the depositary shares involves certain risks. See Risk Factors beginning on page 1 of the accompanying prospectus.**

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

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	<b>Per Depositary Share</b>	<b>Total</b>
Public Offering Price	\$ 25.00	\$ 75,000,000
Underwriting Discount	\$	\$
Proceeds to PS Business Parks (before expenses)	\$	\$

The underwriters are offering the depositary shares subject to various conditions. The underwriters expect to deliver the depositary shares to purchasers on or about January 30, 2004.

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**Citigroup**

**Credit Suisse First Boston**

**A.G. Edwards & Sons, Inc.**

**Morgan Stanley**

**Wachovia Securities**

**Bear, Stearns & Co. Inc.**

**Goldman, Sachs & Co.**

**RBC Capital Markets**

**Wells Fargo Securities, LLC**

January , 2004

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You should rely only on the information contained in 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 of these securities in any state where the offer is not permitted. You should not assume that the information contained in or incorporated by reference in this prospectus supplement or the accompanying prospectus is accurate as of any date other than the date on the front of this prospectus supplement.

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*This prospectus supplement and the accompanying prospectus, including documents incorporated by reference, contain forward-looking statements. Forward-looking statements are inherently subject to risk and uncertainties, many of which cannot be predicted with accuracy and some of which might not even be anticipated. Future events and actual results, financial and otherwise, may differ materially from the results discussed in the forward-looking statements. Important factors that might cause such a difference include, but are not limited to, those discussed in Risk Factors and in Management's Discussion and Analysis of Financial Condition and Results of Operations in our Quarterly Report on Form 10-Q for the quarter ended September 30, 2003, which are incorporated herein by reference.*



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**SUMMARY OF THE OFFERING**

Securities Offered	3,000,000 depositary shares each representing 1/1,000 of a share of our % Cumulative Preferred Stock, Series H.
Price per Share	\$25.
Use of Proceeds	To repay indebtedness incurred under our line of credit and under our loan from an affiliate.
Ranking	<p>With respect to the payment of dividends and amounts upon liquidation, the Series H Preferred Stock will rank:</p> <p style="padding-left: 40px;">on a parity with our 9/4% Cumulative Preferred Stock, Series A, our 9 1/2% Cumulative Preferred Stock, Series D, our 8.750% Cumulative Preferred Stock, Series F and any other preferred shares that are not by their terms subordinated to the Series H Preferred Stock, and</p> <p style="padding-left: 40px;">senior to our common stock and any other of our equity securities that by their terms rank junior to the Series H Preferred Stock.</p>
Dividends	<p>Holders of Series H Preferred Stock will be entitled to receive, when, as and if declared by the Board of Directors out of assets of the Company legally available for payment, cash dividends payable quarterly in arrears on or before the last day of March, June, September and December of each year, commencing on March 31, 2004, at the rate of % of the liquidation preference per year (\$ per year per depositary share). Dividends on the Series H Preferred Stock will accumulate whether or not we have earnings, whether or not we have funds legally available for the payment of such dividends and whether or not we declare dividends.</p>
Liquidation Rights	The Series H Preferred Stock will have a liquidation preference equal to \$25 per depositary share, plus accrued and unpaid dividends, if any.
Redemption	We are not allowed to redeem the Series H Preferred Stock before January , 2009, except in order to preserve our status as a REIT. On and after January , 2009, we may, at our option, redeem the Series H Preferred Stock by paying you \$25 per depositary share, plus any accrued and unpaid dividends.
Voting Rights	If dividends on the Series H Preferred Stock are in arrears for six or more quarterly periods, whether or not such quarterly periods are consecutive, holders of Series H Preferred Stock (voting together with all other series of preferred shares) will be entitled to vote for the election of two additional directors to serve on our Board of Directors until all such arrearages have been paid.
No Conversion	The Series H Preferred Stock is not convertible into or exchangeable for any other of our property or securities.
Trading	We intend to apply to have the depositary shares listed on the AMEX under the symbol PSBPrH. If approved, trading is expected to begin within 30 days after the initial delivery of the depositary shares.

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**THE COMPANY**

We are a self-advised and self-managed real estate investment trust, or REIT, that acquires, develops, owns and operates commercial properties. We are the sole general partner of our operating partnership, PS Business Parks, L.P., through which we conduct most of our activities. At December 31, 2003, we had interests in properties in eight states containing approximately 18.4 million net rentable square feet of space.

**Recent Developments**

On December 19, 2003, we acquired a business park known as the Metro Business Park in Phoenix, Arizona at an aggregate cost, including closing costs, of approximately \$9.5 million. The park consists of four flex-space buildings with a total of 110,000 net rentable square feet. This acquisition increases our presence in the Phoenix, Arizona market to approximately 669,000 net rentable square feet of space.

On December 24, 2003, we acquired an office complex known as Bradley Plaza in Orange, California at a cost, including closing costs, of approximately \$15.5 million. The park consists of two office buildings with a total of 107,000 net rentable square feet. This acquisition increases our presence in the Orange County market to approximately 1,600,000 net rentable square feet of space.

On December 30, 2003, we acquired an industrial park known as the Miami International Commerce Center in Miami, Florida at an aggregate cost, including closing costs, of approximately \$206 million. An additional approximately \$11 million has been budgeted for capital improvements to enhance the property. The park consists of 53 primarily industrial buildings (including two pad sites) with a total of approximately 3,350,000 net rentable square feet. This acquisition provides us with a presence in the Miami market.

The total cost of these acquisitions (including the \$11 million of deferred improvements) was approximately \$242 million. We financed these acquisitions with \$47 million of cash (including a reserve of \$11 million), \$95 million from our line of credit and \$100 million of short-term borrowings from an affiliate, Public Storage, Inc. Wells Fargo Bank, National Association, an affiliate of Wells Fargo Securities, LLC, one of the underwriters of the offering, is the managing agent of our line of credit.

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We estimate that the net proceeds from this offering will approximate \$        million after all anticipated issuance costs. We intend to use the net proceeds to repay a portion of our borrowings under our line of credit. Any remaining net proceeds will be used to repay a portion of our loan from Public Storage, Inc. These debts were incurred in connection with our acquisition of the Miami International Commerce Center described under Recent Developments. The borrowings under our line of credit bear interest at 1.89% per year. The loan from Public Storage bears interest at an annual rate of 1.4% and is due on March 9, 2004.

**CAPITALIZATION**

The following table sets forth our capitalization as of September 30, 2003:

on an actual basis;

on a pro forma basis to give effect to indebtedness we incurred under our line of credit and pursuant to a loan from an affiliate in the fourth quarter of 2003 as if the indebtedness was incurred prior to September 30, 2003; and

on a pro forma as adjusted basis to give further effect to the issuance of 3,000,000 depository shares representing interests in the Preferred Stock pursuant to this offering.

	September 30, 2003		
	Actual	Pro Forma	Pro Forma As Adjusted
	(Dollars in Thousands)		
Mortgage notes payable	\$ 19,844	\$ 19,844	\$ 19,844
Unsecured note payable	50,000	50,000	50,000
Line of credit		95,000	22,663
Short-term indebtedness owed to affiliate		100,000	100,000
Minority interest:			
Preferred units	217,750	217,750	217,750
Common units	169,726	169,726	169,726
Shareholders' equity:			
Preferred stock, \$0.01 par value, 50,000,000 shares authorized, 6,747 shares (6,747,000 depository shares) issued and outstanding, actual, and 9,747 shares (9,747,000 depository shares) issued and outstanding, as adjusted	168,673	168,673	243,673
Common stock, \$0.01 par value, 100,000,000 shares authorized, 21,508,732 shares issued and outstanding	215	215	215
Paid-in capital	419,198	419,198	416,535
Cumulative net income	270,781	270,781	270,781
Other comprehensive loss	(782)	(782)	(782)
Cumulative distributions	(189,557)	(189,557)	(189,557)



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Total shareholders' equity	668,528	668,528	740,865
Total capitalization	\$ 1,125,848	\$ 1,320,848	\$ 1,320,848

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### **DESCRIPTION OF PREFERRED STOCK AND DEPOSITARY SHARES**

#### **General**

Under our Articles of Incorporation, as amended, the Board of Directors is authorized without further shareholder action to provide for the issuance of up to 50,000,000 shares of preferred stock, in one or more series, with such dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption, redemption price and liquidation preference as shall be set forth in resolutions providing for the issue of preferred stock adopted by the Board of Directors. At September 30, 2003, we had outstanding 6,747 shares of preferred stock (represented by 6,747,000 depositary shares) and had reserved for issuance an additional 8,710,000 shares of preferred stock.

Prior to issuance, the Board of Directors will have adopted resolutions creating the \_\_\_\_\_ % Cumulative Preferred Stock, Series H (the Preferred Stock ). When issued, the Preferred Stock will have a liquidation preference of \$25,000 per share, will be fully paid and nonassessable, will not be subject to any sinking fund or other obligation of PS Business Parks, Inc. (the Company ) to repurchase or retire the Preferred Stock, and will have no preemptive rights.

American Stock Transfer & Trust Company will be the transfer agent and dividend disbursing agent for the Preferred Stock.

Each depositary share represents 1/1,000 of a share of Preferred Stock ( Depositary Share ). The shares of the Preferred Stock will be deposited with American Stock Transfer & Trust Company, as Depositary (the Preferred Stock Depositary ), under a Deposit Agreement among the Company, the Preferred Stock Depositary and the holders from time to time of the depositary receipts (the Depositary Receipts ) issued by the Preferred Stock Depositary under the Deposit Agreement. The Depositary Receipts will evidence the Depositary Shares. Subject to the terms of the Deposit Agreement, each holder of a Depositary Receipt evidencing a Depositary Share will be entitled, proportionately, to all the rights and preferences of, and subject to all of the limitations of, the interest in the Preferred Stock represented by the Depositary Share (including dividend, voting, redemption and liquidation rights and preferences). See Description of the Depositary Shares in the accompanying Prospectus and Depositary Shares below.

Immediately following our issuance of the Preferred Stock, we will deposit the Preferred Stock with the Preferred Stock Depositary, which will then issue and deliver the Depositary Receipts to us. We will, in turn, deliver the Depositary Receipts to the underwriters. Depositary Receipts will be issued evidencing only whole Depositary Shares.

We intend to apply to have the Depositary Shares listed on the AMEX. The Preferred Stock will not be listed and we do not expect that there will be any trading market for the Preferred Stock except as represented by the Depositary Shares.

#### **Ownership Restrictions**

For a discussion of ownership limitations that apply to the Preferred Stock and related Depositary Shares, see Description of Common Stock Ownership Limitations in the accompanying Prospectus.

**Preferred Stock**

The following is a brief description of the terms of the Preferred Stock which does not purport to be complete and is subject to and qualified in its entirety by reference to the Certificate of Determination of the Preferred Stock, the form of which is filed as an exhibit to, or incorporated by reference in, the Registration Statement of which this Prospectus Supplement constitutes a part.

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*Ranking*

With respect to the payment of dividends and amounts upon liquidation, the Preferred Stock will rank pari passu with our 9<sup>1</sup>/<sub>4</sub>% Cumulative Preferred Stock, Series A, our 9<sup>1</sup>/<sub>2</sub>% Cumulative Preferred Stock, Series D, and our 8.750% Cumulative Preferred Stock, Series F (collectively, with the Preferred Stock, the Senior Preferred Stock ) and any other shares of preferred stock issued by us, whether now or hereafter issued, ranking pari passu with the Senior Preferred Stock (including shares of preferred stock issued upon conversion of the Series B, Series C, Series E, Series G, Series X and Series Y Cumulative Redeemable Preferred Units of our operating partnership), and will rank senior to the Common Stock and any other capital stock of the Company ranking junior to the Preferred Stock.

*Dividends*

Holders of shares of Preferred Stock, in preference to the holders of shares of the Common Stock, and of any other capital stock issued by us ranking junior to the Preferred Stock as to payment of dividends, will be entitled to receive, when, as and if declared by the Board of Directors out of assets of the Company legally available for payment, cash dividends payable quarterly at the rate of \_\_\_\_\_ of the liquidation preference per year (\$ \_\_\_\_\_ per year per share, equivalent to \$ \_\_\_\_\_ per year per Depositary Share). Dividends on the shares of Preferred Stock will be cumulative from the date of issuance and will be payable, when, as and if declared by the Board of Directors, quarterly on or before March 31, June 30, September 30 and December 31, commencing on or before March 31, 2004, to holders of record as they appear on the stock register of the Company on such record dates, not less than 15 or more than 45 days preceding the payment dates thereof, as shall be fixed by the Board of Directors. After full dividends on the Preferred Stock have been paid or declared and funds set aside for payment for all past dividend periods and for the then current quarter, the holders of shares of Preferred Stock will not be entitled to any further dividends with respect to that quarter.

When dividends are not paid in full upon the Preferred Stock and any other shares of preferred stock of the Company ranking on a parity as to dividends with the Preferred Stock (including the other series of Senior Preferred Stock), all dividends declared upon the Preferred Stock and any other preferred shares of the Company ranking on a parity as to dividends with the Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on such Preferred Stock and such other shares shall in all cases bear to each other the same ratio that the accrued dividends per share on the Preferred Stock and such other preferred shares bear to each other. Except as set forth in the preceding sentence, unless full dividends on the Preferred Stock have been paid for all past dividend periods, no dividends (other than in Common Stock or other shares of capital stock issued by us ranking junior to the Preferred Stock as to dividends and upon liquidation) shall be declared or paid or set aside for payment, nor shall any other distribution be made on the Common Stock or on any other shares of capital stock issued by us ranking junior to or on a parity with the Preferred Stock as to dividends or upon liquidation.

Unless full dividends on the Preferred Stock have been paid for all past dividend periods, we and our subsidiaries may not redeem, repurchase or otherwise acquire for any consideration (nor may we or they pay or make available any moneys for a sinking fund for the redemption of) any shares of Common Stock or any other shares of capital stock issued by us ranking junior to or on a parity with the Preferred Stock as to dividends or upon liquidation except by conversion into or exchange for shares of capital stock issued by us ranking junior to the Preferred Stock as to dividends and upon liquidation.

If for any taxable year, we elect to designate as capital gain dividends (as defined in the Internal Revenue Code) any portion of the dividends paid or made available for the year to the holders of all classes and series of our stock, then the portion of the dividends designated as capital gain dividends that will be allocable to the holders of Preferred Stock will be an amount equal to the total capital gain dividends multiplied by a fraction, the numerator of which will be the total dividends, within the meaning of the Internal Revenue Code, paid or made available to the holders of Preferred Stock for the year, and the denominator of which will be the total dividends paid or made available to holders of all classes and series of our outstanding stock for that year.

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Our revolving credit facility with Wells Fargo restricts our ability to pay distributions in excess of 95% of our Funds from Operations for the prior four fiscal quarters. Funds from operations is defined in the loan agreement generally as net income before gain on sale of real estate, gain or loss from debt restructuring, and deductions for depreciation, amortization and non-cash charges. Our management believes that this restriction will not impede our ability to pay the dividends on the Preferred Stock in full.

As a result of recent changes in the tax law, dividends paid by regular C corporations to persons or entities that are taxed as individuals now are generally taxed at the rate applicable to long-term capital gains, which is a maximum of 15%, subject to certain limitations. Because we are a REIT, however, our dividends, including dividends paid on the Preferred Stock, generally will continue to be taxed at regular ordinary income tax rates, except to the extent that the special rules relating to qualified dividend income and capital gains dividends paid by a REIT apply. See Certain Additional Federal Income Tax Consequences.

### *No Conversion Rights*

The Preferred Stock will not be convertible into shares of any other class or series of capital stock of the Company.

### *Liquidation Rights*

In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, the holders of the Preferred Stock will be entitled to receive out of our assets available for distribution to stockholders, before any distribution of assets is made to holders of Common Stock or of any other shares of capital stock issued by us ranking as to such distribution junior to the Preferred Stock, liquidating distributions in the amount of \$25,000 per share (equivalent to \$25 per Depositary Share), plus all accrued and unpaid dividends (whether or not earned or declared) for the then current, and all prior, dividend periods. If upon any voluntary or involuntary liquidation, dissolution or winding up of the Company, the amounts payable with respect to the Preferred Stock and any other shares of stock issued by us ranking as to any such distribution on a parity with the Preferred Stock are not paid in full, the holders of the Preferred Stock and of such other shares will share ratably in any such distribution of assets of the Company in proportion to the full respective preferential amounts to which they are entitled. After payment of the full amount of the liquidating distribution to which they are entitled, the holders of the Preferred Stock will not be entitled to any further participation in any distribution of assets by us.

For purposes of liquidation rights, a consolidation or merger of the Company with or into any other corporation or corporations or a sale of all or substantially all of the assets of the Company is not a liquidation, dissolution or winding up of the Company.

### *Redemption*

Except in certain circumstances relating to our qualification as a REIT, we may not redeem the shares of Preferred Stock prior to January 1, 2009. On and after January 1, 2009, at any time or from time to time, we may redeem the shares of Preferred Stock in whole or in part at our option at a cash redemption price of \$25,000 per share of Preferred Stock (equivalent to \$25 per Depositary Share), plus all accrued and unpaid dividends to the date of redemption. If fewer than all the outstanding shares of Preferred Stock are to be redeemed, the shares to be redeemed will be determined by the Board of Directors of the Company, and such shares shall be redeemed pro rata from the holders of record of such shares in proportion to the number of such shares held by such holders (with adjustments to avoid redemption of fractional shares) or by lot in a manner determined by the Board of Directors of the Company.

Notwithstanding the foregoing, if any dividends, including any accumulated dividends, on the Preferred Stock are in arrears, we may not redeem any Preferred Stock unless we redeem simultaneously all outstanding

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Preferred Stock, and we may not purchase or otherwise acquire, directly or indirectly, any Preferred Stock; provided, however, that this shall not prevent the purchase or acquisition of the Preferred Stock pursuant to a purchase or exchange offer if such offer is made on the same terms to all holders of the Preferred Stock.

Notice of redemption of the Preferred Stock will be given by publication in a newspaper of general circulation in the County of Los Angeles and the City of New York, such publication to be made once a week for two successive weeks commencing not less than 30 nor more than 60 days prior to the redemption date. A similar notice will be mailed by us, postage prepaid, not less than 30 or more than 60 days prior to the redemption date, addressed to the respective holders of record of shares of Preferred Stock to be redeemed at their respective addresses as they appear on the stock transfer records of the Company. Each notice shall state: (i) the redemption date; (ii) the number of shares of Preferred Stock to be redeemed; (iii) the redemption price per share of Preferred Stock; (iv) the place or places where certificates for the Preferred Stock are to be surrendered for payment of the redemption price; and (v) that dividends on the shares of Preferred Stock to be redeemed will cease to accrue on such redemption date. If fewer than all the shares of Preferred Stock held by any holder are to be redeemed, the notice mailed to such holder shall also specify the number of shares of Preferred Stock to be redeemed from such holder. In order to facilitate the redemption of shares of Preferred Stock, the Board of Directors may fix a record date for the determination of shares of Preferred Stock to be redeemed, such record date to be not less than 30 nor more than 60 days prior to the date fixed for such redemption.

Notice having been given as provided above, from and after the date specified therein as the date of redemption, unless we default in providing funds for the payment of the redemption price on such date, all dividends on the Preferred Stock called for redemption will cease. From and after the redemption date, unless we so default, all rights of the holders of the Preferred Stock as shareholders of the Company, except the right to receive the redemption price (but without interest), will cease. Upon surrender in accordance with such notice of the certificates representing any such shares (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state), the redemption price set forth above shall be paid out of the funds provided by the Company. If fewer than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without cost to the holder thereof.

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

## *Voting Rights*

Except as indicated below, or except as expressly required by applicable law, holders of the Preferred Stock will not be entitled to vote.

If the equivalent of six quarterly dividends payable on the Preferred Stock or any other series of preferred stock are in default (whether or not declared or consecutive), holders of the Preferred Stock (voting as a class with all other shares of preferred stock, without regard to series) will be entitled to elect two additional directors until all dividends in default have been paid or declared and set apart for payment.

Such right to vote separately to elect directors shall, when vested, be subject, always, to the same provisions for vesting of such right to elect directors separately in the case of future dividend defaults. At any time when such right to elect directors separately shall have so vested, we may, and upon the written request of the holders of record of not less than 20% of the total number of shares of preferred stock of the Company then outstanding shall, call a special meeting of shareholders for the election of directors. In the case of such a written request, such special meeting shall be held within 90 days after the delivery of such request and, in either case, at the place and upon the notice provided by law and in our Bylaws, provided that we shall not be required to call such a special meeting if such request is received less than 120 days before the date fixed for the next ensuing annual meeting of shareholders, and the holders of all classes of outstanding preferred stock (in the case of dividend





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defaults) are offered the opportunity to elect such directors (or fill any vacancy) at such annual meeting of shareholders. Directors so elected shall serve until the next annual meeting of our shareholders or until their respective successors are elected and qualify. If, prior to the end of the term of any director so elected, a vacancy in the office of such director shall occur, during the continuance of a default in dividends on shares of preferred stock of the Company by reason of death, resignation, or disability, such vacancy shall be filled for the unexpired term of such former director by the appointment of a new director by the remaining director so elected.

The affirmative vote or consent of the holders of at least 66<sup>2/3</sup>% of the outstanding shares of the Preferred Stock will be required to amend or repeal any provision of or add any provision to, the Articles of Incorporation, including the Certificate of Determination, if such action would materially and adversely alter or change the rights, preferences or privileges of the Preferred Stock, except as set forth below. The affirmative vote or consent of the holders of at least 66<sup>2/3</sup>% of the outstanding shares of the Preferred Stock and any other series of preferred stock ranking on a parity with the Preferred Stock as to dividends or upon liquidation, voting as a single class, will be required to authorize another class or series of shares senior to the Preferred Stock with respect to the payment of dividends or the distribution of assets on liquidation.

No consent or approval of the holders of shares of the Preferred Stock will be required for the issuance from the Company's authorized but unissued preferred stock of other shares of any series of preferred stock ranking on a parity with or junior to the Preferred Stock as to payment of dividends and distribution of assets, including other shares of Preferred Stock.

## **Depositary Shares**

The following is a brief description of the terms of the Depositary Shares which does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the Deposit Agreement (including the form of Depositary Receipt contained therein), which is filed as an exhibit to, or incorporated by reference in, the Registration Statement of which this Prospectus Supplement constitutes a part.

### *Dividends*

The Depositary will distribute all cash dividends or other cash distributions received in respect of the Preferred Stock to the record holders of Depositary Receipts in proportion to the number of Depositary Shares owned by such holders on the relevant record date, which will be the same date as the record date fixed by us for the Preferred Stock. In the event that the calculation of such amount to be paid results in an amount which is a fraction of one cent, the amount the Depositary shall distribute to such record holder shall be rounded to the next highest whole cent if such fraction of one cent is equal to or greater than \$.005. Otherwise, the fractional interest shall be disregarded.

In the event of a distribution other than in cash, the Depositary will distribute property received by it to the record holders of Depositary Receipts entitled thereto, in proportion, as nearly as may be practicable, to the number of Depositary Shares owned by such holders on the relevant record date, unless the Depositary determines (after consultation with us) that it is not feasible to make such distribution, in which case the Depositary may (with our approval) adopt any other method for such distribution as it deems equitable and appropriate, including the sale of such property (at such place or places and upon such terms as it may deem equitable and appropriate) and distribution of the net proceeds from such sale to such holders.

### *Liquidation Preference*

In the event of the liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary, the holders of each Depositary Share will be entitled to 1/1000th of the liquidation preference accorded each share of the Preferred Stock.

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### *Redemption*

Whenever we redeem any Preferred Stock held by the Depositary, the Depositary will redeem as of the same redemption date the number of Depositary Shares representing the Preferred Stock so redeemed. The Depositary will publish a notice of redemption of the Depositary Shares containing the same type of information and in the same manner as our notice of redemption and will mail the notice of redemption promptly upon receipt of such notice from us and not less than 30 nor more than 60 days prior to the date fixed for redemption of the Preferred Stock and the Depositary Shares to the record holders of the Depositary Receipts. In case less than all the outstanding Depositary Shares are to be redeemed, the Depositary Shares to be so redeemed shall be determined pro rata or by lot in a manner determined by the Board of Directors.

### *Voting*

Promptly upon receipt of notice of any meeting at which the holders of the Preferred Stock are entitled to vote, the Depositary will mail the information contained in such notice of meeting to the record holders of the

Depositary Receipts as of the record date for such meeting. Each such record holder of Depositary Receipts will be entitled to instruct the Depositary as to the exercise of the voting rights pertaining to the number of shares of Preferred Stock represented by such record holder's Depositary Shares. The Depositary will endeavor, insofar as practicable, to vote such Preferred Stock represented by such Depositary Shares in accordance with such instructions, and we will agree to take all action which may be deemed necessary by the Depositary in order to enable the Depositary to do so. The Depositary will abstain from voting any of the Preferred Stock to the extent that it does not receive specific instructions from the holders of Depositary Receipts.

### *Withdrawal of Preferred Stock*

Upon surrender of Depositary Receipts at the principal office of the Depositary, upon payment of any unpaid amount due the Depositary, and subject to the terms of the Deposit Agreement, the owner of the Depositary Shares evidenced thereby is entitled to delivery of the number of whole shares of Preferred Stock and all money and other property, if any, represented by such Depositary Shares. Partial shares of Preferred Stock will not be issued. If the Depositary Receipts delivered by the holder evidence a number of Depositary Shares in excess of the number of Depositary Shares representing the number of whole shares of Preferred Stock to be withdrawn, the Depositary will deliver to such holder at the same time a new Depositary Receipt evidencing such excess number of Depositary Shares. Holders of Preferred Stock thus withdrawn will not thereafter be entitled to deposit such shares under the Deposit Agreement or to receive Depositary Receipts evidencing Depositary Shares therefor.

### *Amendment and Termination of Deposit Agreement*

The form of Depositary Receipt evidencing the Depositary Shares and any provision of the Deposit Agreement may at any time and from time to time be amended by agreement between us and the Depositary. However, any amendment which materially and adversely alters the rights of the holders (other than any change in fees) of Depositary Shares will not be effective unless such amendment has been approved by the holders of at least a majority of the Depositary Shares then outstanding. No such amendment may impair the right, subject to the terms of the Deposit Agreement, of any owner of any Depositary Shares to surrender the Depositary Receipt evidencing such Depositary Shares with instructions to the Depositary to deliver to the holder the Preferred Stock and all money and other property, if any, represented thereby, except in order to comply with mandatory provisions of applicable law. The Deposit Agreement may be terminated by us or the Depositary only if (i) all outstanding Depositary Shares have been redeemed or (ii) there has been a final distribution in respect of the Preferred Stock in connection with

any dissolution of the Company and such distribution has been made to all the holders of Depositary Shares.

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### *Charges of Depositary*

We will pay all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. We will pay charges of the Depositary in connection with the initial deposit of the Preferred Stock and the initial issuance of the Depositary Shares, and redemption of the Preferred Stock and all withdrawals of Preferred Stock by owners of Depositary Shares. Holders of Depositary Receipts will pay transfer, income and other taxes and governmental charges and certain other charges as are provided in the Deposit Agreement to be for their accounts. In certain circumstances, the Depositary may refuse to transfer Depositary Shares, may withhold dividends and distributions and sell the Depositary Shares evidenced by such Depositary Receipt if such charges are not paid.

### *Miscellaneous*

The Depositary will forward to the holders of Depositary Receipts all reports and communications from us which are delivered to the Depositary and which we are required to furnish to the holders of the Preferred Stock. In addition, the Depositary will make available for inspection by holders of Depositary Receipts at the principal

office of the Depositary, and at such other places as it may from time to time deem advisable, any reports and communications received from the Company which are received by the Depositary as the holder of Preferred Stock.

Neither the Depositary nor any Depositary's Agent (as defined in the Deposit Agreement), nor the Registrar (as defined in the Deposit Agreement) nor the Company assumes any obligation or will be subject to any liability under the Deposit Agreement to holders of Depositary Receipts other than for its gross negligence, willful misconduct or bad faith. Neither the Depositary, any Depositary's Agent, the Registrar nor the Company will be liable if it is prevented or delayed by law or any circumstance beyond its control in performing its obligations under the Deposit Agreement. The Company and the Depositary are not obligated to prosecute or defend any legal proceeding in respect of any Depositary Shares, Depositary Receipts or Preferred Stock unless reasonably satisfactory indemnity is furnished. The Company and the Depositary may rely on written advice of counsel or accountants, on information provided by holders of Depositary Receipts or other persons believed in good faith to be competent to give such information and on documents believed to be genuine and to have been signed or presented by the proper party or parties.

### *Resignation and Removal of Depositary*

The Depositary may resign at any time by delivering to us notice of its election to do so, and we may at any time remove the Depositary, any such resignation or removal to take effect upon the appointment of a successor Depositary and its acceptance of such appointment. Such successor Depositary must be appointed within 60 days after delivery of the notice for resignation or removal and must be a bank or trust company having its principal office in the United States of America and having a combined capital and surplus of at least \$150,000,000.

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**CERTAIN ADDITIONAL FEDERAL INCOME TAX CONSEQUENCES**

For a discussion of the taxation of the Company and the tax considerations relevant to shareholders generally, see Material U.S. Federal Income Tax Considerations Taxation of the Company as a REIT , and Taxation of U.S. Shareholders in the Company s Current Report on Form 8-K filed on September 17, 2003 (the Company s 8-K ), which supersedes the statements in the Prospectus under the heading Certain Federal Income Tax Considerations. The following is a summary of certain additional federal income tax considerations pertaining to the acquisition, ownership and disposition of the Depositary Shares and should be read in conjunction with the referenced sections in the Company s 8-K. This discussion of additional considerations is general in nature and is not exhaustive of all possible tax considerations, nor does the discussion address any state, local or foreign tax considerations. This discussion of additional considerations is based on current law and does not purport to deal with all aspects of federal income taxation that may be relevant to a prospective shareholder in light of its particular circumstances or to certain types of shareholders (including insurance companies, financial institutions, broker-dealers, tax exempt investors, foreign corporations and persons who are not citizens or residents of the United States) subject to special treatment under the federal income tax laws. We have not requested and will not request a ruling from the Internal Revenue Service with respect to any of the federal income tax issues discussed below or in the Company s 8-K. Prospective investors should consult, and must depend on, their own tax advisers regarding the federal, state, local, foreign and other tax consequences of holding and disposing of the Depositary Shares.

**Taxation of Holders of Depositary Shares**

*General.* Owners of the Depositary Shares will be treated for federal income tax purposes as if they were owners of the Preferred Stock represented by such Depositary Shares. Accordingly, such owners will take into account, for federal income tax purposes, income to which they would be entitled if they were holders of such Preferred Stock. See Description of the Depositary Shares Federal Income Tax Considerations in the accompanying Prospectus. Withdrawals of Preferred Stock for Depositary Shares are not taxable events for federal income tax purposes.

*Dividends and Other Distributions; Backup Withholding.* For a discussion of the taxation of the Company, the treatment of dividends and other distributions with respect to shares of the Company, and the backup withholding rules, see Material U.S. Federal Income Tax Considerations Taxation of the Company as a REIT, Taxation of U.S. Shareholders and Information Reporting and Backup Withholding Tax Applicable to Shareholders in the Company s 8-K. In determining the extent to which a distribution on the Depositary Shares constitutes a dividend for tax purposes, the earnings and profits of the Company will be allocated first to distributions with respect to the Preferred Stock and all other series of preferred stock that are equal in rank as to distributions and upon liquidation with the Preferred Stock, and second to distributions with respect to Common Stock of the Company.

*Sale or Exchange of Depositary Shares.* Upon the sale, exchange or other disposition of Depositary Shares to a party other than the Company, a holder of Depositary Shares will realize capital gain or loss measured by the difference between the amount realized on the sale, exchange or other disposition of the Depositary Shares and such shareholder s adjusted tax basis in the Depositary Shares (provided the Depositary Shares are held as a capital asset). For a discussion of capital gain taxation see Material U.S. Federal Income Tax Considerations Taxation of U.S. Shareholders in the Company s 8-K.

*Redemption of Depositary Shares.* Whenever the Company redeems any Preferred Stock held by the Depositary, the Depositary will redeem as of the same redemption date the number of Depositary Shares representing the Preferred Stock so redeemed. The treatment to a holder of Depositary Shares accorded to any redemption by the Company (as distinguished from a sale, exchange or other disposition) of Preferred Stock held by the Depositary and corresponding redemption of Depositary Shares can only be determined on the basis of particular facts as to the holder of Depositary Shares at the time of redemption. In general, a holder of Depositary





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Shares will recognize capital gain or loss measured by the difference between the amount received upon the redemption and the holder of the Depositary Shares' adjusted tax basis in the Depositary Shares redeemed (provided the Depositary Shares are held as a capital asset) if such redemption (i) results in a complete termination of a holder's interest in all classes of stock of the Company under Section 302(b)(3) of the Internal Revenue Code of 1986, as amended (the Code) or (ii) is not essentially equivalent to a dividend with respect to the holder under Section 302(b)(1) of the Code. In applying these tests, there must be taken into account not only any Depositary Shares owned by the holder, but also such holder's ownership of Common Stock, equity stock, other series of preferred stock and any options (including stock purchase rights) to acquire any of the foregoing. The holder also must take into account any such securities (including options) which are considered to be owned by such holder by reason of the constructive ownership rules set forth in Sections 318 and 302(c) of the Code.

If a particular holder of Depositary Shares owns (actually or constructively) no shares of Common Stock or equity stock of the Company or an insubstantial percentage of the outstanding shares of Common Stock, equity stock or preferred stock of the Company, based upon current law, it is probable that the redemption of Depositary Shares from such a holder would be considered not essentially equivalent to a dividend. However, whether a distribution is not essentially equivalent to a dividend depends on all of the facts and circumstances, and a holder of Depositary Shares intending to rely on any of these tests at the time of redemption should consult its tax advisor to determine their application to its particular situation.

If the redemption does not meet any of the tests under Section 302 of the Code, then the redemption proceeds received from the Depositary Shares will be treated as a distribution on the Depositary Shares as described under Material U.S. Federal Income Tax Considerations Taxation of U.S. Shareholders in the Company's 8-K. If the redemption is taxed as a dividend, the holder of Depositary Shares' adjusted tax basis in the redeemed Depositary Shares will be transferred to any other stockholdings of the holder of Depositary Shares in the Company. If the holder of Depositary Shares owns no other stockholdings in the Company, under certain circumstances, such basis may be transferred to a related person, or it may be lost entirely.

**Table of Contents****UNDERWRITING**

Subject to the terms and conditions stated in the underwriting agreement dated the date of this prospectus supplement, each underwriter named below has severally agreed to purchase, and we have agreed to sell to that underwriter, the number of Depositary Shares set forth opposite the underwriter's name.

<u>Underwriter</u>	<u>Number of Depositary Shares</u>
Citigroup Global Markets Inc.	
Credit Suisse First Boston LLC	
A.G. Edwards & Sons, Inc.	
Morgan Stanley & Co. Incorporated	
Wachovia Capital Markets, LLC	
Bear, Stearns & Co. Inc.	
Goldman, Sachs & Co.	
RBC Dain Rauscher Inc.	
Wells Fargo Securities, LLC	
<b>Total</b>	<b>3,000,000</b>

The underwriting agreement provides that the obligations of the several underwriters to purchase the Depositary Shares included in this offering are subject to approval of legal matters by counsel and to other conditions. The underwriters are obligated to purchase all of the Depositary Shares if they purchase any of the depositary shares.

The underwriters, for whom Citigroup Global Markets Inc., Credit Suisse First Boston LLC, A.G. Edwards & Sons, Inc., Morgan Stanley & Co. Incorporated, Wachovia Capital Markets, LLC, Bear, Stearns & Co. Inc., Goldman, Sachs & Co., RBC Dain Rauscher Inc. and Wells Fargo Securities, LLC are acting as representatives, propose to offer some of the Depositary Shares directly to the public at the public offering price set forth on the cover page of this prospectus supplement and some of the Depositary Shares to dealers at the public offering price less a concession not to exceed \$        per Depositary Share. The underwriters may allow, and dealers may reallow, a concession not to exceed \$        per Depositary Share on sales to other dealers. If all of the Depositary Shares are not sold at the initial offering price, the representatives may change the public offering price and the other selling terms.

We have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus supplement, to purchase up to 450,000 additional Depositary Shares at the public offering price less the underwriting discount and accumulated dividends, if any. The underwriters may exercise the option solely for the purpose of covering over-allotments, if any, in connection with this offering. To the extent the option is exercised, each underwriter must purchase a number of additional Depositary Shares approximately proportionate to that underwriter's initial purchase commitment.

We intend to apply to have the Depositary Shares listed on the AMEX.

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The following table shows the underwriting discounts and commissions that we are to pay to the underwriters in connection with this offering. These amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase additional Depositary Shares.

	<u>No Exercise</u>	<u>Full Exercise</u>
Per share	\$	\$
Total	\$	\$

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In connection with the offering, Citigroup Global Markets Inc. on behalf of the underwriters may purchase and sell Depositary Shares in the open market. These transactions may include short sales, syndicate covering transactions and stabilizing transactions. Short sales involve syndicate sales of Depositary Shares in excess of the number of Depositary Shares to be purchased by the underwriters in the offering, which creates a syndicate short position. Covered short sales are sales of Depositary Shares made in an amount up to the number of shares represented by the underwriters' over-allotment option. In determining the source of Depositary Shares to close out the covered syndicate short position, the underwriters will consider, among other things, the price of Depositary Shares available for purchase in the open market as compared to the price at which they may purchase Depositary Shares through the over-allotment option. Transactions to close out the covered syndicate short position involve either purchases of the Depositary Shares in the open market after the distribution has been completed or the exercise of the over-allotment option. The underwriters may also make naked short sales of Depositary Shares in excess of the over-allotment option. The underwriters must close out any naked short position by purchasing Depositary Shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the Depositary Shares in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of bids for or purchases of Depositary Shares in the open market while the offering is in progress.

The underwriters also may impose a penalty bid. Penalty bids permit the underwriters to reclaim a selling concession from a syndicate member when Citigroup Global Markets Inc. repurchases Depositary Shares originally sold by that syndicate member in order to cover syndicate short positions or make stabilizing purchases.

Any of these activities may have the effect of preventing or retarding a decline of the market price of the Depositary Shares. They may also cause the price of the Depositary Shares to be higher than the price that would otherwise exist in the open market in the absence of these transactions. The underwriters may conduct these transactions on the AMEX or in the over-the-counter market, or otherwise. If the underwriters commence any of these transactions, they may discontinue any of them at any time.

We estimate that our portion of the total expenses of this offering will be \$200,000.

Certain of the underwriters have performed investment banking and advisory services for us from time to time for which they have received customary fees and expenses. The underwriters may, from time to time, engage in transactions with and perform services for us in the ordinary course of their business.

Wells Fargo Bank, National Association, an affiliate of Wells Fargo Securities, LLC, one of the underwriters, is the managing agent of our line of credit. A portion of our outstanding borrowings under the line of credit will be repaid using the proceeds of this offering.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act of 1933, or to contribute to payments the underwriters may be required to make because of any of those liabilities.

We expect that delivery of the Depositary Shares will be made against payment therefor on or about January 30, 2004, which is the business day following the date of this prospectus supplement. Under Rule 15c6-1 of the Securities Exchange Act, trades in the secondary market generally are required to settle in three business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade the Depositary Shares on the date of this prospectus supplement or the next succeeding business days will be required, by virtue of the fact that the Depositary Shares initially will settle in T+ , to specify an alternative settlement cycle at the time of any such trade to prevent a failed settlement and should consult their own advisor.



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**LEGAL MATTERS**

The validity of the Preferred Stock and the Depositary Shares offered hereby will be passed upon for us by David Goldberg, vice-president and counsel of PS Business Parks, and for the underwriters by Hale and Dorr LLP. Hogan & Hartson L.L.P., Washington, D.C., has delivered an opinion as to the status of PS Business Parks as a REIT. See Certain Additional Federal Income Tax Considerations in the accompanying prospectus. Mr. Goldberg owns 3,113 shares of our common stock. Hale and Dorr LLP has from time to time represented PS Business Parks on other matters. Hale and Dorr LLP will rely upon Mr. Goldberg with respect to matters governed by California law.

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**PS Business Parks, Inc.**

**By this prospectus, we may offer**

**Common Stock**

**Preferred Stock**

**Equity Stock**

**Depositary Shares**

**Warrants**

We will provide the specific terms of these securities in supplements to this prospectus. You should read this prospectus and the supplements carefully before you invest.

This prospectus may also be used in registered resales of common stock as described under Plan of Distribution.

**Please read Risk Factors beginning on page 1 for a discussion of material risks you should consider before you invest.**

Neither the Securities and Exchange Commission nor any state securities regulator has approved or disapproved the securities to be issued under this prospectus or determined if this prospectus is accurate or adequate. Any representation to the contrary is a criminal offense.

June 2, 1999

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You should rely only on the information contained in 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 of these securities in any state where the offer is not permitted. You should not assume that the information contained in or incorporated by reference in this prospectus supplement or the accompanying prospectus is accurate as of any date other than the date on the front of this prospectus supplement.

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**RISK FACTORS**

Before investing in our securities, you should consider the following risks and detriments:

**We are controlled by Public Storage.**

**Public Storage owns a substantial number of our shares.** At April 30, 1999, Public Storage owned 22% of the outstanding shares of our common stock (41% upon conversion of its interest in our operating partnership). Consequently, Public Storage has the ability to effectively control all matters submitted to a vote of our shareholders, including electing directors, changing our articles of incorporation, dissolving and approving other extraordinary transactions. In addition, Public Storage's ownership may make it more difficult for another party to take over our company without Public Storage's approval.

**Public Storage has a voting agreement with another large shareholder.** Public Storage and an institutional shareholder owning 26% of our common stock as of April 30, 1999 have both agreed to vote their shares to support specified nominees to our board of directors until the voting agreement expires, which is not before December 2001. This voting agreement further strengthens Public Storage's control of our company.

**Provisions in our organizational documents may prevent changes in control.**

**Our articles generally prohibit owning more than 7% of our shares.** Our articles of incorporation restrict the number of shares that may be owned by any other person, and the partnership agreement of our operating partnership contains an anti-takeover provision. No shareholder (other than Public Storage and certain other specified shareholders) may own more than 7% of the outstanding shares of our common stock, unless our board of directors waives this limitation. We imposed this limitation to avoid, to the extent possible, a concentration of ownership that might jeopardize our ability to qualify as a real estate investment trust, or REIT. This limitation, however, also makes a change of control much more difficult (if not impossible) even if it may be favorable to our public shareholders. These provisions will prevent future takeover attempts not approved by Public Storage even if a majority of our public shareholders consider it to be in their best interests because they would receive a premium for their shares over the shares' then market value or for other reasons.

**Our board can set the terms of certain securities without shareholder approval.** Our board of directors is authorized, without shareholder approval, to issue up to 50,000,000 shares of preferred stock and up to 100,000,000 shares of equity stock, in each case in one or more series. Our board has the right to set the terms of each of these series of stock. Consequently, the board could set the terms of a series of stock that could make it difficult (if not impossible) for another party to take over our company even if it might be favorable to our public shareholders. Our articles of incorporation also contain other provisions that could have the same effect. We can also cause our operating partnership to issue additional interests for cash or in exchange for property.

**The partnership agreement of our operating partnership restricts mergers.** The partnership agreement of our operating partnership provides that generally we may not merge or engage in a similar transaction unless limited partners of our operating partnership are entitled to receive the same proportionate payments as our shareholders. Also we have agreed not to merge unless the merger would have been approved had the limited partners been able to vote together with our shareholders. These provisions may also make it more difficult for us to merge.

**Our operating partnership poses additional risks to us.**

Limited partners of our operating partnership, including Public Storage, have the right to vote on certain changes to the partnership agreement. They may vote in a way that is against the interests of our shareholders. Also, as general partner of our operating partnership, we are required to protect the interests of the limited partners of our operating partnership. The interests of the limited partners and of our shareholders may differ.

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### **We cannot sell certain properties without Public Storage's approval.**

Before 2007, we may not sell 13 specified properties without Public Storage's approval. Since Public Storage would be taxed on a sale of these properties, the interests of Public Storage and our shareholders may differ as to the best time to sell.

### **Certain institutional investors have special rights.**

Certain institutional investors have rights, such as the right to approve nominees to our board of directors, the right to purchase our securities in certain circumstances and the right to require registration of their shares, not available to our public shareholders.

### **We would incur adverse tax consequences if we fail to qualify as a REIT.**

**Our cash flow is reduced if we fail to qualify as a REIT.** While we believe that we have qualified since 1990 to be taxed as a REIT, and will continue to be qualified, we cannot be certain. To continue to qualify as a REIT, we need to satisfy certain requirements under the federal income tax laws relating to our income, assets, distributions to shareholders and shareholder base. In this regard, the share ownership limits in our articles of incorporation do not necessarily ensure that our shareholder base is sufficiently diverse for us to qualify as a REIT. For any year we fail to qualify as a REIT, we would be taxed at regular corporate tax rates on our taxable income unless certain relief provisions apply. Taxes would reduce our cash available for distributions to shareholders or for reinvestment, which could adversely affect us and our shareholders. Also we would not be allowed to elect REIT status for five years after we fail to qualify unless certain relief provisions apply.

**Our cash flow is reduced if our predecessor failed to qualify as a REIT.** For us to qualify to be taxed as a REIT, our predecessor, American Office Park Properties, also needed to qualify to be taxed as a REIT. We believe American Office Park Properties qualified as a REIT beginning in 1997 until its March 1998 merger with us. If it is determined that it did not qualify as a REIT, we could also lose our REIT qualification. Before 1997, our predecessor was a taxable corporation and, to qualify as a REIT, was required to distribute all of its profits before the end of 1996. While we believe American Office Park Properties qualified as a REIT since 1997, we did not obtain an opinion of an outside expert at the time of its merger with us.

**We may need to borrow funds to meet our REIT distribution requirements.** To qualify as a REIT, we must generally distribute to our shareholders 95% of our taxable income. Our income consists primarily of our share of our operating partnership's income. We intend to make sufficient distributions to qualify as a REIT and otherwise avoid corporate tax. However, differences in timing between income and expenses and the need to make nondeductible expenditures such as capital improvements and principal payments on debt could force us to borrow funds to make necessary shareholder distributions.

**Since we buy and operate real estate, we are subject to the general real estate investment and operating risks.**

**Summary of real estate risks.** We own and operate commercial properties and are subject to the risks of owning real estate generally and commercial properties in particular. These risks include:

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- the national, state and local economic climate and real estate conditions, such as oversupply of or reduced demand for space and changes in market rental rates;
- how prospective tenants perceive the attractiveness, convenience and safety of our properties;
- our ability to provide adequate management, maintenance and insurance;
- our ability to collect rent from tenants on a timely basis;
- the expense of periodically renovating, repairing and reletting spaces;

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- increasing operating costs, including real estate taxes and utilities, if these increased costs cannot be passed through to tenants; and
- changes in tax, real estate and zoning laws.

Certain significant costs, such as mortgage payments, real estate taxes, insurance and maintenance costs, generally are not reduced even when a property's rental income is reduced. In addition, environmental and tax laws, interest rate levels, the availability of financing and other factors may affect real estate values and property income. Furthermore, the supply of commercial space fluctuates with market conditions.

If our properties do not generate sufficient income to meet operating expenses, including any debt service, tenant improvements, leasing commissions and other capital expenditures, we may have to borrow additional amounts to cover fixed costs, and we may have to reduce our distributions to shareholders.

**We only recently acquired many of our properties.** We have recently acquired many of our properties and intend to continue to acquire additional properties. As of March 31, 1999, approximately 36% of our properties' square footage was not managed by us before January 1, 1998. We may not be aware of problems with newly acquired properties that could affect their value, and their operating performance may be less than we anticipate. Also, we may have difficulty integrating new acquisitions into our existing portfolio.

**We may encounter significant delays in reletting vacant space, resulting in losses of income.** When leases expire, we will incur expenses and we may not be able to release the space on the same terms. Certain leases provide tenants with the right to terminate early if they pay a fee. While we have estimated our cost of renewing leases that expire in 1999, our estimates could be wrong. If we are unable to release space promptly, if the terms are significantly less favorable than anticipated or if the costs are higher, we may have to reduce our distributions to shareholders.

**Tenant defaults and bankruptcies may reduce our cash flow and distributions.** We may have difficulty in collecting from tenants in default, particularly if they declare bankruptcies. This could affect our cash flow and distributions to shareholders.

**We may be adversely affected by significant competition among commercial properties.** Many other commercial properties compete with our properties for tenants and we expect that new properties will be built in our markets. Also, we compete with other buyers, many of whom are larger than us, for attractive commercial properties. Therefore, we may not be able to grow as rapidly as we would like.

**We may be adversely affected if losses on our properties are not covered by insurance.** We carry insurance on our properties that we believe is comparable to the insurance carried by other operators for similar properties. However, we could suffer uninsured losses that adversely affect us or even result in loss of the property. We might still remain liable on any mortgage debt related to that property.

**The illiquidity of our real estate investments may prevent us from adjusting our portfolio to respond to market changes.** There may be delays and difficulties in selling real estate. Therefore, we cannot easily change our portfolio when economic conditions change. Also, tax laws limit a REIT's ability to sell properties held for less than four years.

**We may be adversely affected by changes in laws.** Increases in income and service taxes may reduce our cash flow and ability to make expected distributions to our shareholders. Our properties are also subject to various federal, state and local regulatory requirements, such as state and local fire and safety codes. If we fail to comply with these requirements, governmental authorities could fine us or courts could award damages against us. We believe our properties comply with all significant legal requirements. However, these requirements could change in a way that would reduce our cash flow and ability to make distributions to shareholders.

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**We may incur significant environmental remediation costs.** Under various federal, state and local environmental laws an owner or operator of real estate interests may have to clean spills or other releases of hazardous or toxic substances on or from a property. Certain environmental laws impose liability whether or not the owner knew of, or was responsible for, the presence of the hazardous or toxic substances. In some cases, liability may exceed the value of the property. The presence of toxic substances, or the failure to properly remedy any resulting contamination, may make it more difficult for the owner or operator to sell, lease or operate its property or to borrow money using its property as collateral. Future environmental laws may impose additional material liabilities on us.

In May 1998, we bought a property in Beaverton, Oregon known as Creekside Corporate Park. Under a consent order issued by the Oregon environmental agency, the current and past owners of the property are conducting an environmental remedial investigation of a property next to Creekside Corporate Park, which is owned by Mattel Corporation. We are not a party to the consent order. As part of the consent order, the Oregon environmental agency ordered the property owners to sample soil and groundwater on our property to determine the nature and extent of contamination resulting from past industrial operations at the Mattel property. We executed access agreements with the current and former property owners to allow access to our property to conduct the required sampling and testing. The sampling and testing is ongoing, and preliminary results from one area indicate that the contamination from the Mattel property may have migrated onto a portion of the Creekside Corporate Park that we own.

We believe that we bear no responsibility or liability for the contamination. If we are held responsible for any costs related to this matter, we believe that the party from whom the property was purchased will be responsible for any expenses or liabilities that we may incur as a result of this contamination.

**We may be affected by the Americans with Disabilities Act.** The Americans with Disabilities Act of 1990 requires that access and use by disabled persons of all public accommodations and commercial properties be facilitated. Existing commercial properties must be made accessible to disabled persons. While we have not estimated the cost of complying with this act, we do not believe the cost will be significant.

**Our ability to control our properties may be adversely affected by ownership through partnerships and joint ventures.**

We own most of our properties through our operating partnership. Our organizational documents do not limit our investment of funds with others in partnerships or joint ventures. This type of investment may present additional risks. For example, our partners may have interests that differ from ours or that conflict with ours, or our partners may become bankrupt.

**We can change our business policies and increase our level of debt without shareholder approval.**

Our board of directors establishes our investment, financing, distribution and our other business policies and may change these policies without shareholder approval. Our organizational documents do not limit our level of debt. A change in our policies or an increase in our level of debt could adversely affect our operations or the price of our common stock.

**We can issue additional securities without shareholder approval.**



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We can issue preferred and common stock without shareholder approval. Holders of preferred stock have priority over holders of common stock, and the issuance of additional shares of common stock reduces the interest of existing holders in our company.

### **Increases in interest rates may adversely affect the market price of our common stock.**

One of the factors that influences the market price of our common stock is the annual rate of distributions that we pay on our common stock, as compared with interest rates. An increase in interest rates may lead

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purchasers of REIT shares to demand higher annual distribution rates, which could adversely affect the market price of our common stock.

### **Shares that become available for future sale may adversely affect the market price of our common stock.**

Substantial sales of our common stock, or the perception that substantial sales may occur, could adversely affect the market price of our common stock. Certain of our shareholders hold significant numbers of shares of our common stock and, subject to compliance with applicable securities laws, could sell their shares.

### **We depend on key personnel.**

We depend on our executive officers, including Ronald L. Havner, Jr., our chief executive officer and president, and Mary Jayne Howard, our chief operating officer and executive vice president. The loss of either of these executive officers could adversely affect our operations. We maintain no key person insurance on either of them.

## **ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission using a shelf registration process. Under this shelf process, we may sell from time to time up to \$600,000,000 of our common stock, preferred stock, equity stock, depositary shares and warrants, in any combination. This prospectus provides a general description of the securities that we may offer. Each time we offer any of the types of securities described in this prospectus, we will prepare and distribute a prospectus supplement that will contain a description of the specific terms of the securities being offered and of the offering. The prospectus supplement may also supplement the information contained in this prospectus. You should read both this prospectus and the applicable prospectus supplement, together with the additional information described under the heading **Where You Can Find More Information**, before purchasing any securities.

This prospectus may also be used in registered resales of common stock as described under **Plan of Distribution**.

Unless otherwise indicated or unless the context requires otherwise, all references in this prospectus to **the Company**, **we**, **us**, **our** and similar references mean PS Business Parks, Inc. and its subsidiaries, including PS Business Parks, L.P. All references in this prospectus to **our operating partnership** mean PS Business Parks, L.P.

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**WHERE YOU CAN FIND MORE INFORMATION**

We are subject to the reporting requirements of the Securities Exchange Act of 1934, and are required to file annual, quarterly and special reports with the Securities and Exchange Commission. You may read and copy any of these documents at the Commission's public reference rooms at Room 1024, Judiciary Plaza, 450 Fifth Street, N.W., Washington, D.C. 20549, and at the Commission's regional offices at Seven World Trade Center, 13th Floor, New York, New York 10048, and Citicorp Center, 500 West Madison Street, Suite 1400, Chicago, Illinois 60661-2511. You may telephone the Commission at 1-800-SEC-0330 for further information on the Commission's public reference facilities. The Commission also maintains a computer site on the World Wide Web (<http://www.sec.gov>) that contains the reports, proxy and information statements and other information that we and other registrants file electronically with the Commission. You can also inspect reports and other information we file at the offices of the American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

We have filed a registration statement on Form S-3, of which this prospectus is a part, with the Commission to register offers and sales of the securities described in this prospectus under the Securities Act of 1933. The registration statement contains additional information about us and the securities. You may read the registration statement and its exhibits without charge at the office of the Commission at 450 Fifth Street, N.W., Washington, D.C. 20549, or on the Commission's World Wide Web site, and you may obtain copies of it from the Commission at prescribed rates.

The Commission allows us to provide information about our business and other important information to you by incorporating by reference the information we file with the Commission, which means that we can disclose that information to you by referring in this prospectus to the documents we file with the Commission. Under the Commission's regulations, any statement contained in a document incorporated by reference in this prospectus is automatically updated and superseded by any information contained in this prospectus, or in any subsequently filed document of the types described below.

We incorporate into this prospectus by reference the following documents filed by us with the Commission, each of which should be considered an important part of this prospectus:

<u>SEC Filing (File No. 1-10709)</u>	<u>Period Covered or Date of Filing</u>
Annual Report on Form 10-K	Year ended December 31, 1998
Quarterly Report on Form 10-Q	Quarter ended March 31, 1999
Current Report on Form 8-K	Dated April 28, 1999
Description of our common stock contained in Registration Statement on Form 8-A, as supplemented by the description of our common stock contained in this prospectus	Effective March 15, 1991
All subsequent documents filed by us under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act of 1934	After the date of this prospectus and before the termination of the offering

You may request a copy of each of our filings at no cost, by writing or telephoning us at the following address, telephone or facsimile number:

Investor Services Department

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PS Business Parks, Inc.

701 Western Avenue

Glendale, California 91201-2397

Telephone: (800) 807-3055

(800) 421-2856

(818) 244-8080

Facsimile: (818) 241-0627

Exhibits to a document will not be provided unless they are specifically incorporated by reference in that document.

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**FORWARD-LOOKING STATEMENTS**

Some of the information included or incorporated by reference in this prospectus contains forward-looking statements, such as those pertaining to our portfolio performance and future results of operations, market conditions and prospects. The pro forma financial statements and other pro forma information incorporated by reference in this prospectus also contain forward-looking statements. You can identify forward-looking statements by their use of forward-looking terminology such as believes, expects, may, will, should, seeks, intends, plans, or anticipates or the negative of these words and phrases or similar words or phrases. Discussion of strategy, plans or intentions also include forward-looking statements. pro form

Forward-looking statements inherently involve risks and uncertainties and you should not rely on them as predictions of future events. The factors described above under the heading Risk Factors, as well as changes in the commercial real estate market and the general economy, could cause future events and actual results to differ materially from those set forth or contemplated in the forward-looking statements.

**THE COMPANY**

We are a self-advised and self-managed real estate investment trust or REIT that acquires, develops, owns and operates commercial properties. We are the sole general partner of our operating partnership, PS Business Parks, L.P., through which we conduct most of our activities. At March 31, 1999, we owned approximately 73% of our operating partnership with substantially all of the balance owned by Public Storage, Inc.

In a March 1998 merger with American Office Park Properties, Inc., we acquired the commercial property business previously operated by Public Storage and were renamed PS Business Parks, Inc. At March 31, 1999, we owned 114 commercial properties in 11 states containing approximately 11.3 million square feet of space.

We elected to be taxed as a REIT beginning with our 1990 taxable year. To the extent that we continue to qualify as a REIT, we will not be taxed, with certain limited exceptions, on the net income that we distribute currently to our shareholders. We were incorporated in California in 1990. Our principal executive offices are located at 701 Western Avenue, Glendale, California 91201-2397. Our telephone number is (818) 244-8080.

**Table of Contents****USE OF PROCEEDS**

We intend to use the net proceeds from the sale of the securities described in this prospectus for the acquisition of commercial properties, repayment of our outstanding debt and for general business purposes. Pending their use, we may invest the net proceeds in short-term, interest bearing securities.

**RATIO OF EARNINGS TO FIXED CHARGES**

We compute our ratio of earnings to combined fixed charges and preferred stock dividends by dividing our earnings by our fixed charges. Earnings consists of net income before minority interest in income, loss on early extinguishment of debt and gain on disposition of real estate plus fixed charges less the portion of minority interest in income which does not contribute to fixed charges. In computing our ratio for periods prior to March 17, 1998, we used the operations and fixed charges of American Office Park Properties, Inc., our predecessor for accounting and financial reporting purposes.

	<b>For the Three Months Ended</b>		<b>For the Year Ended December 31,</b>				
	<b>March 31,</b>		<b>1998</b>	<b>1997</b>	<b>1996</b>	<b>1995</b>	<b>1994</b>
	<b>1999</b>	<b>1998</b>					
Ratio of earnings to combined fixed charges and preferred stock dividends	12.17	29.92	16.34	12,403.00	N/A	N/A	N/A

N/A not applicable as we did not have any fixed charges in this period.

**DESCRIPTION OF COMMON STOCK**

We are authorized to issue 100,000,000 shares of common stock. At April 30, 1999, we had outstanding 23,637,410 shares of common stock (exclusive of a total of 7,903,666 shares issuable upon exchange of interests in our operating partnership and shares subject to options).

**Common Stock**

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

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Holders of our common stock will be entitled to receive dividends when, as and if declared by our board of directors, out of funds legally available therefor. Payment and declaration of dividends on our common stock and purchases of shares of common stock by us will be subject to certain restrictions if we fail to pay dividends on outstanding preferred stock. See Description of Preferred Stock. Upon any liquidation, dissolution or winding up of the Company, holders of common stock will be entitled to share equally and ratably in any assets available for distribution to them, after payment or provision for payment of the debts and our other liabilities and the preferential amounts owing with respect to any of our outstanding preferred stock. Holders of our common stock have no preemptive rights, except such as have been provided to certain of our shareholders by contract, which means public shareholders have no right to acquire any additional shares of common stock that we may issue at a later date.

Each outstanding share of our common stock entitles the holder to one vote on all matters presented to our holders for a vote, with the exception that they have cumulative voting rights with respect to the election of our board of directors, in accordance with California law. Cumulative voting means that each holder of our common stock is entitled to cast as many votes as there are directors to be elected multiplied by the number of shares

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registered in his or her name. A holder of our common stock may cumulate the votes for directors by casting all of the votes for one candidate or by distributing the votes among as many candidates as he or she chooses. The outstanding shares of our common stock are, and additional shares of common stock will be, when issued, fully paid and nonassessable.

The rights, preferences and privileges of holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of our preferred stock or our equity stock which we may designate and issue in the future. See [Description of Preferred Stock](#) and [Description of Equity Stock](#).

## **Ownership Limitations**

For us to qualify as a REIT under the Internal Revenue Code of 1986, as amended (the [Code](#)), no more than 50% in value of our outstanding shares of capital stock may be owned, directly or constructively under the applicable attribution rules of the Code, by five or fewer individuals (as defined in the Code to include certain entities) during the last half of a taxable year. In order to maintain our qualification as a REIT, our articles of incorporation provide certain restrictions on the shares of capital stock that any shareholder may own.

Our articles of incorporation provide that, subject to certain exceptions, no holder may own, or be deemed to own by virtue of the attribution provisions of the Code, more than (A) 7.0% of the outstanding shares of our common stock and (B) 9.9% of the outstanding shares of each class or series of shares of our preferred stock or equity stock and that all shares of stock be imprinted with a legend setting forth that restriction. Our articles of incorporation provide, however, that no person shall be deemed to exceed the ownership limit solely by reason of the beneficial ownership of shares of any class of stock to the extent that such shares of stock were beneficially owned by such person (including Public Storage) upon completion of, and after giving effect to, the merger with American Office Park Properties. Thus, this limitation does not affect the ownership of common stock held by Public Storage and certain other shareholders at the time of the merger. Furthermore, the limitation does not apply with respect to shares of stock deemed to be owned by a person as a result of such person's ownership of shares of Public Storage (however, such ownership will be taken into account in determining whether a subsequent acquisition or transfer of our shares (but not Public Storage) violates the ownership limit). The ownership limitation is intended to assist in preserving our REIT status in view of Public Storage's substantial ownership interest in us and the Hughes family's substantial ownership interest in Public Storage. There can be no assurance, however, that such ownership limit will enable us to satisfy the requirement that a REIT not be [closely held](#) within the meaning of Section 856(h) of the Code for any given taxable year, in part as a result of the provision described above providing that the ownership limitation generally does not apply to our shares deemed to be owned as a result of a person's ownership of shares of Public Storage.

Our articles of incorporation provide that our board of directors, in its sole and absolute discretion, may grant exceptions to the ownership limits, so long as (A) our board has determined that we would not be [closely held](#) within the meaning of Section 856(h) of the Code (without regard to whether the event in question takes place during the second half of a taxable year) and would not otherwise fail to qualify as a REIT, after giving effect to an acquisition by an excepted person of beneficial ownership of the maximum amount of capital stock permitted as a result of the exception to be granted, and taking into account the existing and permitted ownership by other persons of stock (taking into account any other exceptions granted) and (B) the excepted persons provide to our board such representations and undertakings as our board may require. In any case, no holder may own or acquire, either directly, indirectly or constructively under the applicable attribution rules of the Code, any shares of any class of capital stock if such ownership or acquisition (i) would cause more than 50% in value of outstanding capital stock to be owned, either directly or constructively, under the applicable attribution rules of the Code, by five or fewer individuals (as defined in the Code to include certain tax-exempt entities, other than, in general, qualified domestic pension funds), (ii) would result in the Company's stock being beneficially owned by less than 100 persons (determined without reference to any rules of attribution), or (iii) would otherwise result in our failing to qualify as a REIT.



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Our articles of incorporation generally provide that if any holder of capital stock purports to transfer shares to a person or there is a change in our capital structure, and either the transfer or the change in capital structure would result in our failing to qualify as a REIT, or such transfer or the change in capital structure would cause the transferee to hold shares in excess of the applicable ownership limit, then the shares causing the violation will be automatically transferred to a trust for the benefit of a designated charitable beneficiary. The purported transferee of those shares will have no right to receive dividends or other distributions with respect to them and will have no right to vote the shares. Any dividends or other distributions paid to such purported transferee prior to the discovery by us that the shares have been transferred to a trust will be paid to the trustee of the trust for the benefit of the charitable beneficiary upon demand. The trustee will designate a transferee of those shares so long as the shares would not violate the restrictions on ownership or transfer in the articles of incorporation in the hands of the designated transferee. Upon the sale of such shares, the purported transferee will receive out of any proceeds remaining after payment of expenses of the charitable trust and us the lesser of (A)(i) the price per share such purported transferee paid for the stock in the purported transfer that resulted in the transfer of the shares to the trust, or (ii) if the transfer or other event that resulted in the transfer of the shares to the trust was not a transaction in which the purported transferee gave full value for such shares, a price per share equal to the market price on the date of the purported transfer or other event that resulted in the transfer of the shares to the trust and (B) the price per share received by the trustee from the sale or other disposition of the shares held in the trust. Each purported transferee shall be deemed to have waived any claims such purported transferee may have against the trustee and us arising from the disposition of the shares, except for claims arising from the trustee's or our gross negligence, willful misconduct, or failure to make payments when required by the articles of incorporation.

## **DESCRIPTION OF PREFERRED STOCK**

We are authorized to issue 50,000,000 shares of preferred stock. At April 30, 1999, we had 2,200 outstanding shares of preferred stock (represented by 2,200,000 depository shares) and 510,000 shares reserved for issuance. Our articles of incorporation provide that the preferred stock may be issued from time to time in one or more series and give our board of directors broad authority to fix the dividend and distribution rights, conversion and voting rights, if any, redemption provisions and liquidation preferences of each series of preferred stock. Holders of preferred stock have no preemptive rights. The preferred stock will be, when issued, fully paid and nonassessable.

Although the issuance of preferred stock with special voting rights (or common stock) could be used to deter attempts to obtain control of us in transactions not approved by our board of directors, we have no present intention to issue stock for that purpose.

### **Outstanding Preferred Stock**

At April 30, 1999, we had outstanding a series of preferred stock. It (1) has a stated value of \$25 per depository share, (2) in preference to the holders of shares of our common stock and any other capital stock ranking junior to the preferred stock as to payment of dividends, provides for cumulative quarterly dividends of 9<sup>1</sup>/<sub>4</sub>% of the stated value and (3) is subject to redemption, in whole or in part, at our option at a cash redemption price of \$25 per depository share, plus accrued and unpaid dividends, on and after April 30, 2004.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of the preferred stock will be entitled to receive out of our assets available for distribution to shareholders, before any distribution of assets is made to holders of our common stock or any other shares of capital stock ranking as to such distributions junior to the preferred stock, liquidating distributions in the amount of \$25 per depository share, plus all accrued and unpaid dividends.

Except as expressly required by law and in certain other limited circumstances, holders of the preferred stock are not entitled to vote. The consent of holders of at least 66<sup>2</sup>/<sub>3</sub>% of the outstanding shares of the preferred stock (and any other series of preferred stock ranking on a parity

therewith), voting as a single class, is required to authorize another class of shares senior to the preferred stock.

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### **Ownership Limitations**

For a discussion of the ownership limitations that apply to preferred stock, see [Description of Common Stock Ownership Limitations](#).

### **Future Series of Preferred Stock**

The following description of preferred stock sets forth certain general terms and provisions of the preferred stock to which any prospectus supplement may relate. The statements below describing the preferred stock are in all respects subject to and qualified in their entirety by reference to the applicable provisions of our articles of incorporation (including the applicable form of certificate of determination) and bylaws.

Reference is made to the prospectus supplement relating to the preferred stock offered thereby for specific terms, including, where applicable, the following: (1) the title and stated value of such preferred stock; (2) the number of shares of such preferred stock offered, the liquidation preference per share and the offering price of such preferred stock; (3) the dividend rate(s), period(s) and/or payment date(s) or method(s) of calculation applicable to such preferred stock; (4) the date from which dividends on such preferred stock shall accumulate, if applicable; (5) the provision for a sinking fund, if any, for such preferred stock; (6) the provision for redemption, if applicable, of such preferred stock; (7) any listing of such preferred stock on any securities exchange; (8) the terms and conditions, if applicable, upon which such preferred stock will be convertible into common stock, including the conversion price (or manner of calculation); (9) the voting rights, if any, of such preferred stock; (10) any other specific terms, preferences, rights, limitations or restrictions of such preferred stock; (11) the relative ranking and preferences of such preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs; and (12) any limitations on issuance of any series of preferred stock ranking senior to or on a parity with such series of preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs.

*Ranking.* The ranking of the preferred stock is set forth in the applicable prospectus supplement. Unless otherwise specified in the applicable prospectus supplement, such preferred stock will, with respect to dividend rights and rights upon liquidation, dissolution or winding up of our affairs, rank (i) senior to the common stock, any additional class of common stock and any series of preferred stock expressly made junior to such preferred stock; (ii) on a parity with all preferred stock previously issued by us the terms of which specifically provide that such preferred stock rank on a parity with the preferred stock offered hereby; and (iii) junior to all preferred stock previously issued by us the terms of which specifically provide that such preferred stock rank senior to the preferred stock offered hereby.

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

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

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No dividends (other than in common stock or other capital stock ranking junior to the preferred stock of any series as to dividends and upon liquidation) will be declared or paid or set aside for payment (nor will any other distribution be declared or made upon the common stock, or any other capital stock of us ranking junior to

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or on a parity with the preferred stock of such series as to dividends or upon liquidation), nor will any common stock or any other of our capital stock ranking junior to or on a parity with the preferred stock of such series as to dividends or upon liquidation be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by us (except by conversion into or exchange for other capital stock of us ranking junior to the preferred stock of such series as to dividends and upon liquidation) unless (i) if such series of preferred stock has a cumulative dividend, full cumulative dividends on the preferred stock of such series have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for payment for all past dividend periods and the then current dividend period, and (ii) if such series of preferred stock does not have a cumulative dividend, full dividends on the preferred stock of such series have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for payment for the then current dividend period.

Any dividend payment made on shares of a series of cumulative preferred stock offered hereby will first be credited against the earliest accrued but unpaid dividend due with respect to shares of such series which remains payable.

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

The prospectus supplement relating to a series of preferred stock offered hereby that is subject to mandatory redemption will specify the number of shares of such preferred stock that will be redeemed by us in each year commencing after a date to be specified, at a redemption price per share to be specified, together with an amount equal to all accrued and unpaid dividends thereon (which will not, if such preferred stock does not have a cumulative dividend, include any accumulation in respect of unpaid dividends for prior dividend periods) to the date of redemption. The redemption price may be payable in cash, securities or other property, as specified in the applicable prospectus supplement.

Notwithstanding the foregoing, no shares of any series of preferred stock offered hereby will be redeemed and we will not purchase or otherwise acquire directly or indirectly any shares of preferred stock of such series (except by conversion into or exchange for capital stock of us ranking junior to the preferred stock of such series as to dividends and upon liquidation) unless all outstanding shares of preferred stock of such series are simultaneously redeemed unless, in each case, (i) if such series of preferred stock has a cumulative dividend, full cumulative dividends on the preferred stock of such series will have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for payment for all past dividend periods and the then current dividend period and (ii) if such series of preferred stock does not have a cumulative dividend, full dividends on the preferred stock of such series have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for payment for the then current dividend period; provided, however, that the foregoing shall not prevent the purchase or acquisition of shares of preferred stock of such series pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding shares of preferred stock of such series.

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

Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each holder of record of preferred stock of any series to be redeemed at the address shown on our stock transfer books. Each notice will state: (i) the redemption date; (ii) the number of shares and series of the preferred stock to be redeemed; (iii) the redemption price; (iv) the place or places where certificates for such preferred stock are to be surrendered for payment of the redemption price; (v) that dividends on the shares to be redeemed



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will cease to accrue on such redemption date; and (vi) the date upon which the holder's conversion rights, if any, as to such shares shall terminate. If fewer than all the shares of preferred stock of any series are to be redeemed, the notice mailed to each such holder thereof shall also specify the number of shares of preferred stock to be redeemed from each such holder and, upon redemption, a new certificate shall be issued representing the unredeemed shares without cost to the holder thereof. In order to facilitate the redemption of shares of preferred stock, our board of directors may fix a record date for the determination of shares of preferred stock to be redeemed, such record date to be not less than 30 or more than 60 days prior to the date fixed for such redemption.

Notice having been given as provided above, from and after the date specified therein as the date of redemption, unless we default in providing funds for the payment of the redemption price on such date, all dividends on the preferred stock called for redemption will cease. From and after the redemption date, unless we so default, all rights of the holders of the preferred stock as our shareholders, except the right to receive the redemption price (but without interest), will cease.

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

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

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

*Voting Rights.* Holders of the preferred stock offered hereby will not have any voting rights, except as set forth below or as otherwise expressly required by law or as indicated in the applicable prospectus supplement.

If the equivalent of six quarterly dividends payable on any series of preferred stock are in default (whether or not declared or consecutive), the holders of all such series of preferred stock, voting as a single class with all other series of preferred stock upon which similar voting rights have been conferred and are exercisable, will be entitled to elect two additional directors until all dividends in default have been paid or declared and set apart for payment.

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Such right to vote separately to elect directors shall, when vested, be subject, always, to the same provisions for vesting of such right to elect directors separately in the case of future dividend defaults. At any time when



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such right to elect directors separately shall have so vested, we may, and upon the written request of the holders of record of not less than 20% of our total number of preferred shares then outstanding shall, call a special meeting of shareholders for the election of directors. In the case of such a written request, such special meeting shall be held within 90 days after the delivery of such request and, in either case, at the place and upon the notice provided by law and in the bylaws, provided that we will not be required to call such a special meeting if such request is received less than 120 days before the date fixed for the next ensuing annual meeting of shareholders, and the holders of all classes of outstanding preferred stock are offered the opportunity to elect such directors (or fill any vacancy) at such annual meeting of shareholders. Directors so elected will serve until the next annual meeting of shareholders or until their respective successors are elected and qualify. If, prior to the end of the term of any director so elected, a vacancy in the office of such director shall occur, during the continuance of a default by reason of death, resignation, or disability, such vacancy shall be filled for the unexpired term of such former director by the appointment of a new director by the remaining director or directors so elected.

The affirmative vote or consent of the holders of at least a majority of the outstanding shares of each series of preferred stock will be required to amend or repeal any provision of or add any provision to, our articles of incorporation, including the certificate of determination, if such action would materially and adversely alter or change the rights, preferences or privileges of such series of preferred stock.

No consent or approval of the holders of any series of preferred stock offered hereby will be required for the issuance from our authorized but unissued preferred stock of other shares of any series of preferred stock ranking on a parity with or junior to such series of preferred stock, or senior to a series of preferred stock expressly made junior to other series of preferred stock as to payment of dividends and distribution of assets, including other shares of such series of preferred stock.

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

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

## **DESCRIPTION OF EQUITY STOCK**

We are authorized to issue 100,000,000 shares of equity stock. At April 30, 1999, we had no outstanding shares of equity stock. Our articles of incorporation provide that the equity stock may be issued from time to time in one or more series and give our board of directors broad authority to fix the dividend and distribution rights, conversion and voting rights, redemption provisions and liquidation rights of each series of equity stocks. Holders of equity stock have no preemptive rights. The shares of equity stock will be, when issued, fully paid and nonassessable.

The issuance of equity stock with special voting rights (or common stock) could be used to deter attempts by a single shareholder or group of shareholders to obtain control of us in transactions not approved by our board of directors. We have no intention to issue the equity stock (or common stock) for such purposes.



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### **Ownership Limitations**

For a discussion of the ownership limitations that apply to equity stock, see [Description of Common Stock Ownership Limitations](#).

### **Terms of Equity Stock**

The following description of equity stock sets forth certain general terms and provisions of the equity stock to which any prospectus supplement may relate. The statements below describing the equity stock are in all respects subject to and qualified in their entirety by reference to the applicable provisions of our articles of incorporation (including the applicable form of certificate of determination) and bylaws.

Reference is made to the prospectus supplement relating to the equity stock offered thereby for specific terms, including, where applicable, the following: (1) the designation of such equity stock; (2) the number of shares of such equity stock offered, the liquidation rights and the offering price of such equity stock; (3) the dividend rate(s), period(s) and/or payment date(s) or method(s) of calculation applicable to such equity stock; (4) the provision for redemption, if applicable, of such equity stock; (5) any listing of such equity stock on any securities exchange; (6) the terms and conditions, if applicable, upon which such equity stock will be convertible into common stock, including the conversion price (or manner of calculation thereof); (7) the voting rights, if any, of such equity stock; (8) any other specific terms, rights, limitations or restrictions of such equity stock; and (9) the relative ranking of such equity stock as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs.

*Ranking.* The ranking of the equity stock is set forth in the applicable prospectus supplement. Unless otherwise specified in the applicable prospectus supplement, such equity stock will, with respect to dividend rights and rights upon liquidation, dissolution or winding up of our affairs, rank on a parity with the common stock.

*Dividends.* Holders of shares of the equity stock of each series offered hereby shall be entitled to receive, when, as and if declared by our board of directors, out of our assets legally available for payment, cash dividends at such rates and on such dates as will be set forth in the applicable prospectus supplement. Each such dividend shall be payable to holders of record as they appear on our stock transfer books on such record dates as shall be fixed by our board of directors. Unless otherwise specified in the applicable prospectus supplement, dividends on such equity stock will be non-cumulative.

*Redemption.* If so provided in t