
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-3

**REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933**

FEDERAL REALTY INVESTMENT TRUST

(Exact name of registrant as specified in its charter)

Maryland

(State or other jurisdiction of incorporation or organization)

52-0782497

(I.R.S. Employer Identification No.)

**1626 East Jefferson Street
Rockville, Maryland 20852**

Telephone: (301) 998-8100

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

**Dawn M. Becker, Executive Vice President, General Counsel and Secretary
Federal Realty Investment Trust
1626 East Jefferson Street
Rockville, Maryland 20852
Telephone: (301) 998-8100**

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

Copies to:

**Jeffrey B. Grill, Esq.
Eric M. Green, Esq.**

**Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8000**

Approximate date of commencement of proposed sale of the securities to the public:

From time to time following the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check One):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

Title of Each Class of Securities to be Registered(2)	Amount to be Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Debt Securities				
Preferred Shares, \$0.01 par value				
Depository Shares(3)	(1)	(1)	(1)	(1)
Common Shares, \$0.01 par value(4)				
Warrants				

- (1) An indeterminate aggregate offering price or number of securities of each identified class is being registered as may from time to time be offered at indeterminate prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities. In accordance with Rules 456(b) and 457(r) under the Securities Act, the registrant is deferring payment of the entire registration fee.
- (2) Offered securities registered hereunder may be sold separately, together or as units with other offered securities registered hereunder.
- (3) Each depository share will be issued under a deposit agreement and will be evidenced by a depository receipt.
- (4) Includes associated rights to purchase common shares of beneficial interest of the registrant.

PROSPECTUS



Debt Securities, Common Shares, Preferred Shares, Depositary Shares and Warrants

We may from time to time offer, in one or more series, separately or together, the following:

- our debt securities, which may be either senior debt securities or subordinated debt securities;
- our common shares of beneficial interest (and rights to acquire common shares that are attached to, or trade with, our common shares);
- our preferred shares of beneficial interest;
- our preferred shares of beneficial interest represented by depositary receipts; and
- warrants to purchase our common and preferred shares.

Our common shares are listed on the New York Stock Exchange under the symbol “FRT.”

We will offer our securities in amounts, at prices and on terms to be determined at the time we offer such securities. When we sell a particular series of securities, we prepare a prospectus supplement describing the offering and the terms of that series of securities. Such terms may include limitations on direct or beneficial ownership and restrictions on transfer of our securities being offered that we believe are appropriate to preserve our status as a real estate investment trust, or REIT, for federal income tax purposes.

The applicable prospectus supplement will also contain information, where applicable, about certain United States federal income tax considerations relating to the securities covered by such prospectus supplement.

We may offer our securities directly, through agents we may designate from time to time, or to or through underwriters or dealers. If any agents or underwriters are involved in the sale of any of our securities, their names and any applicable purchase price, fee, commission or discount arrangement between or among them will be set forth or will be calculable from the information set forth in the applicable prospectus supplement. None of our securities may be sold without delivery of the applicable prospectus supplement describing the method and terms of the offering of such class or series of the securities.

Investing in our securities involves risks. See “[Risk Factors](#)” on page 2 of this prospectus.

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

The date of this prospectus is June 16, 2009.

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, using a “shelf” registration process. Under this shelf process, we may sell any combination of the securities described in this prospectus either separately or in units, in one or more offerings. Our prospectus provides you with a general description of these securities. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about all of the terms of that offering. Our prospectus supplement may also add, update or change information contained in this prospectus. Before purchasing any securities, you should read both this prospectus and the applicable prospectus supplement and any applicable free writing prospectus, together with additional information described under the heading “Where You Can Find More Information.”

References to “we,” “us,” “our” or “ours” refer to Federal Realty Investment Trust and its directly or indirectly owned subsidiaries, unless the context otherwise requires. The term “you” refers to a prospective investor.

RISK FACTORS

Investing in our securities involves a high degree of risk. Before making an investment decision, please consider the risks described under the caption “Risk Factors” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, on file with the SEC, which is incorporated herein by reference, in addition to any risks and additional information included in this prospectus, in an applicable prospectus supplement and in any subsequent filing with the SEC that is incorporated herein by reference. The risks and uncertainties we have described are those we believe to be the principal risks that could affect us, our business or our industry, and which could result in a material adverse impact on our financial condition, results of operation or the market price of our securities. However, additional risks and uncertainties not currently known to us or that we currently deem immaterial may affect our business operations and the market price of our securities.

FORWARD-LOOKING INFORMATION

This prospectus contains and incorporates forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and the Private Securities Litigation Reform Act of 1995. Also, documents that we “incorporate by reference” into this prospectus, including documents that we subsequently file with the SEC, will contain forward-looking statements. When we refer to forward-looking statements or information, sometimes we use words such as “may,” “will,” “could,” “should,” “plans,” “intends,” “expects,” “believes,” “estimates,” “anticipates” and “continues.” The risk factors in this prospectus and in any prospectus supplement describe risks that may affect these statements but are not all-inclusive, particularly with respect to possible future events. Many things can happen that can cause actual results to be different from those we describe. Given these uncertainties, readers are cautioned not to place undue reliance on these forward-looking statements. We also make no promise to update any of the forward-looking statements, or to publicly release the results if we revise any of them.

THE COMPANY

We are an equity real estate investment trust specializing in the ownership, management and redevelopment of high-quality retail and mixed-use properties located primarily in densely populated and affluent communities in strategically selected metropolitan markets in the Northeast and Mid-Atlantic regions of the United States, as well as in California. As of March 31, 2009, we owned or had a majority interest in community and neighborhood shopping centers and mixed-use projects which are operated as 84 predominantly retail real estate properties comprising approximately 18.1 million square feet.

We operate in a manner intended to enable us to qualify as a REIT pursuant to provisions of the Internal Revenue Code of 1986, as amended, or the Code.

We were founded in 1962 as a real estate investment trust under the laws of the District of Columbia and re-formed as a real estate investment trust in the state of Maryland in 1999. Our principal executive offices are located at 1626 East Jefferson Street, Rockville, Maryland 20852. Our telephone number is (301) 998-8100. Our website address is www.federalrealty.com. The information contained on our website is not a part of this prospectus and is not incorporated herein by reference.

USE OF PROCEEDS

Unless otherwise specified in the applicable prospectus supplement, we will use the net proceeds from the sale of securities for one or more of the following:

- repayment of debt;
- acquisition of additional properties;
- redevelopment of existing properties;
- redemption of preferred shares; and
- working capital and general corporate purposes.

RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED SHARE DIVIDENDS

The following table sets forth our historical ratio of earnings to fixed charges and preferred stock dividends for the periods indicated:

	For the Three Months Ended March 31,		For the Years Ended December 31,				
	2009	2008	2008	2007	2006	2005	2004
Ratio of earnings to fixed charges	1.4	2.1	2.1	1.7	1.9	1.9	1.7
Ratio of earnings to combined fixed charges and preferred stock dividends	1.3	2.0	2.1	1.7	1.6	1.7	1.5

The ratio of earnings to fixed charges is computed by dividing earnings by fixed charges. In computing the ratio of earnings to fixed charges: (a) earnings consist of income from continuing operations before noncontrolling interests plus distributed income of equity investees and fixed charges (excluding capitalized interest) less noncontrolling interests of subsidiaries with no fixed charges; and (b) fixed charges consist of interest expense including amortization of debt discounts and issuance costs (including capitalized interest) and the estimated portion of rents payable by us representing interest.

The ratio of earnings to combined fixed charges and preferred stock dividends is computed by dividing earnings by the total of fixed charges and preferred stock dividends. In computing the ratio of earnings to combined fixed charges and preferred stock dividends: (a) earnings consist of income from continuing operations before noncontrolling interests plus distributed income of equity investees and fixed charges (excluding capitalized interest) less noncontrolling interests of subsidiaries with no fixed charges; (b) fixed charges consist of interest expense including amortization of debt discounts and issuance costs (including capitalized interest) and the estimated portion of rents payable by us representing interest; and (c) preferred stock dividends consist of preferred stock dividends and preferred stock redemption costs.

DESCRIPTION OF DEBT SECURITIES

We will prepare and distribute a prospectus supplement that describes the specific terms of the debt securities. In this section of the prospectus, we describe the general terms we expect all debt securities to have. We also identify some of the specific terms that will be described in a prospectus supplement. Although we expect that any debt securities we offer with this prospectus will have the general terms we describe in this section, our debt securities may have terms that are different from or inconsistent with the general terms we describe here. Therefore, you should read the prospectus supplement carefully.

General Terms of Debt Securities

Unless we say otherwise in a prospectus supplement, debt securities we offer through this prospectus:

- will be our general, direct and unsecured obligations; and
- may be either senior debt securities or subordinated debt securities.

Senior debt securities will rank equally with all of our other unsecured and unsubordinated obligations. Subordinated debt securities will be subordinate and junior in right of payment to all of our present and future senior debt in the manner we describe in a prospectus supplement.

We may incur additional debt, subject to limitations in the agreements governing our credit and other debt facilities and other notes we may have issued.

Unless we say otherwise in a prospectus supplement:

- debt securities we offer through this prospectus will not limit the amount of other debt that we may incur;
- you will not have any protection if we engage in a highly leveraged transaction, a restructuring, a transaction involving a change in control, or a merger or similar transaction that may adversely affect holders of the debt securities; and
- we will not list the debt securities on any securities exchange.

The Indentures

Any debt securities we offer through this prospectus will be issued under one or more indentures, including the senior indenture between us and U.S. Bank National Association, successor to Wachovia Bank National Association, formerly First Union National Bank, as trustee. We have filed with the SEC the senior indenture that is an exhibit to the registration statement that includes this prospectus. The senior indenture describes the general terms of senior debt securities we may issue. The general terms of any subordinated debt securities that we may issue will be included in a subordinated indenture, which will also include additional terms describing the subordination provisions of these securities. The senior indenture is subject to the Trust Indenture Act of 1939, as amended.

Unless we say otherwise in a prospectus supplement, each indenture does not or will not include all the terms of debt securities we may issue through this prospectus. If we issue debt securities through this prospectus, our Board of Trustees, or any committee thereof, will establish the additional terms for each series of debt securities. The additional terms will be either established pursuant to, and set forth in, a supplemental indenture, or established pursuant to a resolution of our Board of Trustees, or any committee thereof, and set forth in an officer's certificate. Each indenture describes or will describe the additional terms that may be established and we summarize the additional terms that may be established under "— Additional Terms of Debt Securities," below.

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We have summarized the provisions of the senior indenture and any subordinated indenture that we may enter into below. The summary is not complete. You should read the senior indenture and any other indenture that we may enter into for provisions that may be important to you. The extent, if any, to which the provisions of the base senior indenture or any other base indenture that we may enter into apply to particular debt securities will be described in the prospectus supplement relating to those securities. You should read the prospectus supplement for more information regarding any particular issuance of debt securities.

Additional Terms of Debt Securities

As described above, the terms of a particular series of debt securities we offer through this prospectus will be established by our Board of Trustees, or any committee thereof, when we issue the series. We will describe the terms of the series in a prospectus supplement. Unless we say otherwise in a prospectus supplement, each indenture provides or will provide that the terms that may be established include the following:

- **Title.** The title of the debt securities offered.
- **Amount.** Any limit upon the total principal amount of the series of debt securities offered.
- **Maturity.** The date or dates on which the principal of and premium, if any, on the offered debt securities will mature or the method of determining such date or dates.
- **Interest Rate.** The rate or rates (which may be fixed or variable) at which the offered debt securities will bear interest, if any, or the method of calculating such rate or rates.
- **Interest Accrual.** The date or dates from which interest will accrue or the method by which such date or dates will be determined.
- **Interest Payment Dates.** The date or dates on which interest will be payable and the record date or dates to determine the persons who will receive payment, and the basis upon which interest shall be calculated if other than that of a 360-day year of twelve 30-day months.
- **Place of Payment.** The place or places where principal of, premium, if any, and interest, on the offered debt securities will be payable or at which the offered debt securities may be surrendered for registration of transfer or exchange.
- **Optional Redemption.** The period or periods within which, the price or prices at which, the currency or currencies (if other than in U.S. dollars), including currency unit or units, in which, and the other terms and conditions upon which, the offered debt securities may be redeemed, in whole or in part, at our option, if we have that option.
- **Mandatory Redemption.** The obligation, if any, we have to redeem or repurchase the offered debt securities pursuant to any sinking fund or similar provisions or upon the happening of a specified event or at the option of a holder; and the period or periods within which, the price or prices at which, the currency or currencies (if other than in U.S. dollars), including currency unit or units, in which, and the other terms and conditions upon which, such offered debt securities shall be redeemed or purchased, in whole or in part.
- **Denominations.** The denominations in which the offered debt securities are authorized to be issued.
- **Currency.** The currency or currency unit in which the offered debt securities may be denominated and/or the currency or currencies, including currency unit or units, in which principal of, premium, if any, and interest, if any, on the offered debt securities will be payable and whether we or the holders of

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the offered debt securities may elect to receive payments in respect of the offered debt securities in a currency or currency unit other than that in which the offered debt securities are stated to be payable.

- **Indexed Principal.** If the amount of principal of, or premium, if any, or interest on, the offered debt securities may be determined with reference to an index or pursuant to a formula or other method, the manner in which such amounts will be determined.
- **Payment on Acceleration.** If other than the principal amount, the amount which will be payable upon declaration of the acceleration of the maturity or the method by which such portion shall be determined.
- **Special Rights.** Provisions, if any, granting special rights to the holders of the offered debt securities if certain specified events occur.
- **Modifications to Indentures.** Any addition to, or modification or deletion of, any event of default or any of the covenants specified in the indenture with respect to the offered debt securities.
- **Tax “Gross-Up.”** The circumstances, if any, under which we will pay additional amounts on the offered debt securities held by non-U.S. persons for taxes, assessments or similar charges.
- **Registered or Bearer Form.** Whether the offered debt securities will be issued in registered or bearer form or both.
- **Dates of Certificates.** The date as of which any offered debt securities in bearer form and any temporary global security representing outstanding securities are dated, if other than the original issuance date of the offered debt securities.
- **Forms.** The forms of the securities and interest coupons, if any, of the series.
- **Registrar and Paying Agent.** If other than the trustee under the applicable indenture, the identity of the registrar and any paying agent for the offered debt securities.
- **Defeasance.** Any means of defeasance or covenant defeasance that may be specified for the offered debt securities.
- **Global Securities.** Whether the offered debt securities are to be issued in whole or in part in the form of one or more temporary or permanent global securities and, if so, the identity of the depositary or its nominee, if any, for the global security or securities and the circumstances under which beneficial owners of interests in the global security may exchange those interests for certificated debt securities to be registered in the names of or to be held by the beneficial owners or their nominees.
- **Documentation.** If the offered debt securities may be issued or delivered, or any installment of principal or interest may be paid, only upon receipt of certain certificates or other documents or satisfaction of other conditions in addition to those specified in the applicable indenture, the form of those certificates, documents or conditions.
- **Payees.** If other than as provided in the applicable indenture, the person to whom any interest on any registered security of the series will be payable and the manner in which, or the person to whom, any interest on any bearer securities of the series will be payable.
- **Definitions.** Any definitions for the offered debt securities of that series that are different from or in addition to the definitions included in the applicable indenture, including, without limitation, the definition of “unrestricted subsidiary” to be used for such series.

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- **Subordination.** In the case of any subordinated indenture that we may enter into, the relative degree to which the offered debt securities shall be senior to or junior to other debt securities, whether currently outstanding or to be offered in the future, and to other debt, in right of payment.
- **Guarantees.** Whether the offered debt securities are guaranteed and, if so, the identity of the guarantors and the terms of the offered guarantees (including whether and the extent to which the guarantees are subordinated to other debt of the guarantors).
- **Conversion.** The terms, if any, upon which the offered debt securities may be converted or exchanged into or for our common shares, preferred shares or other securities or property, including, without limitation, the initial conversion price or rate, the conversion period, any adjustment of the applicable conversion price and any requirements relative to the reservation of such shares for purposes of conversion.
- **Restrictions.** Any restrictions on the registration, transfer or exchange of the offered debt securities.
- **Other Terms.** Any other terms not inconsistent with the terms of the applicable indenture pertaining to the offered debt securities or which may be required or advisable under U.S. laws or regulations or advisable, as we determine, in connection with marketing of securities of the series.

Form of Securities and Related Matters

Registered or Bearer Form. Debt securities may be offered in either registered or bearer form.

- If the debt securities are in registered form, we may treat the person named in the register as the owner of the debt securities for all purposes, including payment, exchange and transfer.
- If we issue debt securities in bearer form, we will issue those debt securities only to non-U.S. persons and may treat the bearer of the securities as the owner for all purposes, including payment, exchange and transfer. If we issue debt securities in bearer form, we will describe special offering restrictions and material U.S. federal income tax considerations relating to the offered debt securities in a prospectus supplement.

Denominations. Unless we say otherwise in a prospectus supplement, we will issue debt securities in denominations of:

- U.S. \$1,000 (or multiples of \$1,000) if we issue the debt securities in registered form; and
- U.S. \$5,000 (or multiples of \$5,000) if we issue debt securities in bearer form.

Payment Currencies and Indexed Securities. We may offer debt securities for which:

- the purchase price is payable in a currency other than U.S. dollars;
- the securities are denominated in a currency other than U.S. dollars; or
- the principal or interest of, or any other amount due on, the offered debt securities in a currency other than U.S. dollars.

The other currency may be a currency unit composed of various currencies. Payments on debt securities may also be based on an index.

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Payment, Transfer and Exchange. Unless we say otherwise in a prospectus supplement, the office for paying principal, interest and other amounts on the debt securities is U.S. Bank National Association, 214 North Tryon Street, 27th Floor, Charlotte, North Carolina 28202. We will notify you of any change in the office's location. At our option, however, we may make any interest payments on debt securities issued in registered form by:

- mailing checks to you at the address as it appears in the applicable register for the series of debt securities; or
- wire transfer of immediately available funds to an account you maintain located in the United States.

Unless we say otherwise in a prospectus supplement, we will pay interest to the person whose name is in the register at the close of business on the regular record date for such interest.

Unless we say otherwise in a prospectus supplement, payment of interest on bearer securities may be made by transfer to an account you maintain with a bank located outside the United States.

Unless we say otherwise in a prospectus supplement, you may transfer or exchange debt securities issued in registered form at an office or agency that we designate. You may transfer or exchange debt securities without service charge, although we may require you to pay any related tax or other governmental charge.

Global Securities

We may issue debt securities of a series in the form of one or more fully registered global securities. Each registered global security will:

- be registered in the name of a depositary or a nominee for the depositary;
- be deposited with the depositary or nominee or a custodian therefor; and
- bear a legend regarding the restrictions on exchanges and registration of transfer and any such other appropriate matters.

Global securities may be issued in either registered or bearer form and in either temporary or permanent form. The specific terms and procedures, including the specific terms of the depositary arrangement, with respect to any portion of a series of debt securities will be described in a prospectus supplement.

Certain Covenants

Unless we say otherwise in a prospectus supplement, each indenture contains or will contain the following covenants. Any additional material covenants applicable to any series of debt securities will be set forth in a prospectus supplement.

Existence. Except as permitted under "Consolidation, Merger or Sale of Assets," we will do or cause to be done all things necessary to preserve and keep in full force and effect our corporate existence, rights (charter and statutory) and franchises; provided, however, we are not required to preserve any right or franchise if we determine that the preservation of the right or franchise is no longer desirable in the conduct of our business.

Maintenance of Properties. We will cause all of our material properties used or useful in the conduct of our business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements of our material properties to be made, all as in our judgment may be necessary so that the business carried on at, or in connection with, our material properties may be properly and advantageously conducted at all times.

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Payment of Taxes and Other Claims. We will pay or discharge or cause to be paid or discharged, before they shall become delinquent:

- all taxes, assessments and governmental charges levied or imposed upon us or upon our income, profits or property, and
- all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon our property;

provided, however, that we shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith.

Provision of Financial Information. Whether or not we are subject to Section 13 or 15(d) of the Exchange Act, we will, within 15 days of each of the respective dates by which we would have been required to file annual reports, quarterly reports and other documents with the SEC if we were so subject:

- transmit by mail to all holders of debt securities, as their names and addresses appear in the register, without cost to such holders, copies of the annual reports, quarterly reports and other documents that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject to Section 13 or 15(d);
- file with the trustee copies of the annual reports, quarterly reports and other documents that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject to Section 13 or 15(d); and
- promptly, upon written request and payment of the reasonable cost of duplication and delivery, supply copies of those documents to any prospective holder.

Consolidation, Merger or Sale of Assets

We may consolidate with, or sell, lease or convey all or substantially all of our assets, or merge with or into any other corporation, association, partnership, company or business trust, each of which we refer to herein as an entity, provided that we satisfy all of the following conditions:

- either
 - we must be the continuing entity, or
 - the surviving entity must be an entity duly organized and validly existing under U.S. laws, any state or the District of Columbia, and the surviving entity must assume, by a supplemental indenture in a form reasonably satisfactory to the trustee, all obligations under the applicable debt securities and the related indenture;
- immediately after giving effect to such transactions, no default or event of default under the debt securities shall have occurred and be continuing; and
- we or the surviving entity has delivered, or caused to be delivered, to the trustee, in form and substance reasonably satisfactory to the trustee, an officers' certificate and an opinion of counsel, each to the effect that each consolidation, merger, transfer, sale, assignment, lease or other transaction and the supplemental indenture relating to such transaction comply with the provisions of the applicable indenture and that all conditions precedent provided for in the indenture relating to the transaction have been met.

Subordination

Generally. Unless we say otherwise in a prospectus supplement, the payment of principal, premium, if any, and interest on subordinated debt securities will be subordinated, or junior, to the prior payment in full of all or any of our present and future “senior debt.” This means that we must pay all present and future senior debt before we pay amounts due to holders of subordinated debt securities if we liquidate, dissolve, reorganize or go through a similar process. After making these payments, we may not have sufficient assets remaining to pay the amounts due to holders of subordinated debt securities or equity securities.

Unless we say otherwise in a prospectus supplement, senior debt will be defined as the principal of and interest on, or substantially similar payments to be made by us in respect of, the following, whether outstanding at the date of execution of any subordinated indenture or thereafter incurred, created or assumed:

- indebtedness for money borrowed or represented by purchase-money obligations;
- indebtedness evidenced by notes, debentures, or bonds, or other securities issued under the provisions of an indenture, fiscal agency agreement or other instrument;
- our obligations as lessee under leases of property whether made as part of any sale and leaseback transaction to which we are a party or otherwise;
- indebtedness of partnerships and joint ventures which is included in our consolidated financial statements;
- indebtedness, obligations and liabilities of others in respect of which we are liable, contingently or otherwise, for payment or advances of money or property, or as guarantor, endorser or otherwise, or which we have agreed to purchase or otherwise acquire; and
- any binding commitment to fund any real estate investment or to fund any investment in any entity making a real estate investment, in each case other than
 - any such indebtedness, obligation or liability of a type described or referred to in the bullets above as to which, in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is provided that such indebtedness, obligation or liability is not superior in right of payment to the subordinated debt securities or ranks pari passu with the subordinated debt securities;
 - any such indebtedness, obligation or liability which is subordinated to our indebtedness to substantially the same extent as or to a greater extent than the subordinated debt securities are subordinated to our indebtedness; and
 - the subordinated debt securities.

Unless we say otherwise in a prospectus supplement, there will be no restrictions in any subordinated indenture upon the creation of additional senior debt.

Payment Blockage for Payment Defaults. Unless we say otherwise in a prospectus supplement, if we have defaulted in the payment of any senior debt, we may not:

- pay any principal, premium, if any, or interest on subordinated debt securities; or
- purchase, redeem, defease, or otherwise acquire any subordinated debt securities.

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This prohibition will not affect any payment we have already made to defease debt securities, as described under “— Defeasance or Covenant Defeasance of Indentures,” below.

We must resume payment on our subordinated debt securities, and make any payments we have missed, when one of the following has occurred:

- the senior debt has been discharged or paid in full;
- the holders of senior debt have waived payment; or
- the payment default has otherwise been cured or ceased to exist.

Payment Blockage for Non-Payment Defaults. Unless we say otherwise in a prospectus supplement, we will also be prohibited from paying any amounts or distributing any assets if:

- we have defaulted on senior debt in a way that does not involve a failure to pay amounts but accelerates payment; and
- we and the trustee for the subordinated debt securities have received written notice of this default.

Unless we say otherwise in a prospectus supplement, we will be required to suspend payments and distributions on our subordinated debt securities starting when we receive notice of the applicable default. We may resume payments on our subordinated debt securities, and make any payments we have missed, upon the earliest of:

- the date that is 179 days after receipt of notice (unless we have previously been required to pay all amounts owing on the applicable senior debt);
- the date the default and all other similar defaults as to which notice has been given shall have been cured, waived or shall have ceased to exist;
- the date the applicable senior debt (and all other senior debt as to which notice has been given) shall have been discharged or paid in full; and
- the date on which we or the trustee receives written notice from the representative of holders of senior debt or the holders of at least a majority of the senior debt terminating the blockage period.

Any number of notices of non-payment defaults may be given, but during any 365-day consecutive period only one blockage period may commence, and the period may not exceed 179 days. No non-payment default with respect to senior debt that existed or was continuing on the date a blockage period for our subordinated debt securities commenced may be made the basis of another blockage period for those securities whether or not within a period of 365 consecutive days, unless at least 90 consecutive days have elapsed since the default was cured or waived.

Default Provisions

Events of Default. Unless we say otherwise in a prospectus supplement, each of the following is an event of default as to any of our senior or subordinated debt securities:

1. A default in the payment of any interest or any additional amounts on any debt security of that series or of any coupon appertaining thereto when it becomes due and payable, if the default continues for a period of 30 days.

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2. A default in the payment of the principal of (or premium, if any, on) any debt security of that series at its maturity (upon acceleration, optional or mandatory redemption, required purchase or otherwise).

3. A default in the deposit of any sinking fund payment as required by the terms of any debt security of that series.

4. A default in the performance, or a breach, of any covenant or agreement by us under the applicable indenture (other than a default in the performance, or a breach of a covenant or agreement which is specifically dealt with in clause (1) through (8) hereof) if such default or breach continues for a period of 60 days after written notice has been given, by registered or certified mail:

(a) to us by the trustee; or

(b) to us and the trustee by the holders of at least 25% in aggregate principal amount of the outstanding debt securities of the series.

5. The occurrence of one or more defaults under any bond, debenture, note or other evidence of indebtedness for money borrowed by us (including obligations under leases required to be capitalized on the balance sheet of the lessee under generally accepted accounting principles but not including any indebtedness or obligations for which recourse is limited to property purchased) in an aggregate principal amount in excess of \$5,000,000 or under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness for money borrowed by us (including such leases but not including such indebtedness or obligations for which recourse is limited to property purchased) in an aggregate principal amount in excess of \$5,000,000, whether such indebtedness now exists or shall hereafter be created, if the default has resulted in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable or in the acceleration of such obligations, without such acceleration having been rescinded or annulled.

6. The entry by a court of competent jurisdiction under any applicable bankruptcy law that:

(a) is for relief against us or any of our significant subsidiaries in an involuntary case,

(b) appoints a receiver in respect of us or any of our significant subsidiaries or for all or substantially all of the property of any of us; or

(c) orders our liquidation or the liquidation of any of our significant subsidiaries,

and the order or decree remains unstayed and in effect for 90 days.

7. We or any of our significant subsidiaries do any of the following:

(a) commence a voluntary case or proceeding under any applicable bankruptcy law;

(b) consent to the entry of a decree or order for relief in respect of us or any of our significant subsidiaries in an involuntary case or proceeding under any applicable bankruptcy law;

(c) consent to the appointment of a receiver in respect of us or any of our significant subsidiaries for all or substantially all of our or its property; or

(d) makes a general assignment for the benefit of our creditors or the creditors of any of our significant subsidiaries.

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8. Any other event of default provided with respect to the debt securities of that series.

Waiver of Default. Unless we say otherwise in a prospectus supplement, holders of not less than a majority of the debt securities of a series may waive any past default except for:

- a payment default; or
- a default on any provision that requires the consent of all holders to modify.

Acceleration of Payment. Unless we say otherwise in a prospectus supplement, each indenture provides or will provide that if an event of default occurs and continues, the trustee or the holders of not less than 25% in aggregate principal amount of the debt securities of the applicable series outstanding may declare all unpaid principal of, premium, if any, and accrued interest on, all the debt securities of the applicable series to be due and payable immediately by a notice given in writing to us (and to the trustee if given by the holders of the debt securities of the applicable series). The trustee may, then, at its discretion, proceed to protect and enforce the rights of the holders of the applicable debt securities by appropriate judicial proceeding.

Waiver of Acceleration. Unless we say otherwise in a prospectus supplement, each indenture provides or will provide that, after a declaration of acceleration, but before a judgment or decree for payment of the money due has been obtained by the trustee, the holders of a majority in aggregate principal amount of the debt securities, by written notice to us and the trustee, may rescind and annul such declaration if:

- we have paid, or deposited with the trustee a sum sufficient to pay:
 - all overdue interest and any additional amounts payable on all outstanding debt securities of the applicable series and any related coupons,
 - the principal of and premium, if any, on any debt securities of the applicable series which have become due other than by such declaration of acceleration, plus interest thereon at the rate borne by the debt securities,
 - to the extent that payment of such interest is lawful, interest upon overdue interest at the rate borne by the debt securities, and
 - all sums paid or advanced by the trustee under the indenture and the reasonable compensation, expenses, disbursements and advances of the trustee, its agents and counsel; and
- all events of default, other than the non-payment of principal of the debt securities which have become due solely by such declaration of acceleration, have been cured or waived.

Notices of Default. Unless we say otherwise in a prospectus supplement, we are required to deliver to the trustee, on or before a date not more than 120 days after the end of each fiscal year, a certificate of compliance with the indenture, and, in the event of any noncompliance, specifying such noncompliance, including whether or not any default has occurred. The trustee is required to give notice to the holders of debt securities within 90 days of a default under the applicable indenture unless such default shall have been cured or waived; provided, however, that the trustee may withhold notice to the holders of any series of debt securities of any default with respect to such series (except a default in the payment of the principal of, and premium, if any, or interest on or any additional amounts with respect to any debt security of such series or in the payment of any sinking fund installment in respect of any debt security of such series) if the trustee considers such withholding to be in the interest of the holders.

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Limitation on Suits. Unless we say otherwise in a prospectus supplement, each indenture provides or will provide that no holders of debt securities of any series may institute any proceedings, judicial or otherwise, with respect to the indenture or for any remedy thereunder unless the trustee has failed to act for a period of 60 days after it has received a written request to institute proceedings in respect of an event of default from the holders of not less than 25% in aggregate principal amount of the debt securities of the applicable series outstanding together with an offer of indemnity from such holders that is reasonably satisfactory to the trustee and the trustee has received no direction inconsistent with such written request during such 60-day period from the holders of a majority in aggregate principal amount of the debt securities of the applicable series outstanding. This provision will not prevent, however, any holder of debt securities from instituting suit for the enforcement of payment of the principal of, and premium, if any, and interest on such debt securities at the respective due dates of the securities.

Obligations of Trustee. Unless we say otherwise in a prospectus supplement, the trustee is under no obligation to exercise any of the rights or powers vested in it by the indenture at the request or direction of any of the holders of the debt securities unless they shall have offered to the trustee security or indemnity satisfactory to the trustee against the costs, expenses and liabilities that might be incurred thereby.

The Trust Indenture Act limits the trustee, should it become a creditor of ours or of any guarantor, from obtaining payment of claims in certain cases or realizing certain property received by it in respect of those claims, as security or otherwise. The trustee is permitted to engage in certain other transactions as long as, if it acquires any conflicting interest and an event of default occurs, it either cures the conflict or resigns as trustee.

For information regarding the acceleration of a portion of the principal amount of any original issue discount securities on the occurrence of an event of default, please read the prospectus supplement relating to the issuance of those securities.

Defeasance or Covenant Defeasance of Indenture

Unless we say otherwise in a prospectus supplement, we will be able to discharge our obligations under debt securities at any time by taking the actions described below. The discharge of all obligations using this process is known as “defeasance.” If we defease debt securities, all obligations under the series of debt securities that is defeased will be deemed to have been discharged, except for:

- the rights of holders of outstanding debt securities to receive, solely from funds deposited for this purpose, payments in respect of the principal of, premium, if any, and interest on those debt securities when the payments are due;
- the obligations with respect to the debt securities concerning issuing temporary debt securities, registration of debt securities, mutilated, destroyed, lost or stolen debt securities, and the maintenance of an office or agency for payment and money for security payments held in trust;
- the rights, powers, trusts, duties and immunities of the trustee; and
- the defeasance provisions of the indenture.

We will also be able to free ourselves from certain covenants that are described in an indenture by taking the actions described below. The discharge of obligations using this process is known as “covenant defeasance.” If we defease covenants under debt securities, then certain events (not including non-payment, enforceability of any guarantee, bankruptcy and insolvency events) described under “— Events of Default” will no longer constitute an event of default with respect to the debt securities.

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Unless we say otherwise in a prospectus supplement, in order to exercise either defeasance or covenant defeasance as to the outstanding debt securities of a series:

- we must irrevocably deposit with the trustee, in trust, for the benefit of the holders of the debt securities of the applicable series, an amount in (i) currency, currencies or currency units in which those debt securities are then specified as payable at maturity, (ii) government obligations (as defined in the applicable indenture) or (iii) any combination thereof, as will be sufficient, without consideration of reinvestment of principal and interest, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the trustee, to pay and discharge the principal of, premium, if any, and interest on the debt securities of the applicable series on the stated maturity of such principal or installment of principal or interest and any mandatory sinking fund payments;
- in the case of defeasance, we will deliver to the trustee an opinion of counsel confirming that either:
 - we have received from, or there has been published by, the Internal Revenue Service a ruling, or
 - since the date of execution of the indenture, there has been a change in the applicable federal income tax law,

the effect of either being that the holders of the outstanding debt securities of the applicable series will not recognize income, gain or loss for federal income tax purposes as a result of such defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred;

- in the case of covenant defeasance, we will deliver to the trustee an opinion of counsel to the effect that the holders of the debt securities of the applicable series will not recognize income, gain or loss for federal income tax purposes as a result of such covenant defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred;
- no default, event of default or event which with notice or lapse of time or both would become an event of default shall have occurred and be continuing on the date of such deposit or insofar as clause 6 or 7 of “— Default Provisions — Events of Default” is concerned, at any time during the period ending on the 91st day after the date of deposit;
- the defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, the indenture or any other material agreement or instrument to which we are a party or by which we are bound;
- we will deliver to the trustee an officers’ certificate and an opinion of counsel, each stating that all conditions precedent provided for that relate to either the defeasance or the covenant defeasance, as the case may be, have been met; and
- we will deliver to the trustee an opinion of counsel to the effect that either (i) as a result of the deposit pursuant to the first bullet in this paragraph and the election to defease, registration is not required under the Investment Company Act of 1940, as amended, with respect to the trust funds representing the deposit, or (ii) all necessary registrations under the Investment Company Act have been effected.

Modifications and Amendments

Unless we say otherwise in a prospectus supplement, we and the trustee may modify and amend either indenture with the consent of the holders of a majority in aggregate principal amount of the outstanding debt

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securities of all series affected by the modification or amendment; provided, however, that no modification or amendment may, without the consent of the holder of each outstanding debt security of all series affected by the modification or amendment:

- change the stated maturity of the principal of, or any installment of interest on, any debt security;
- reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof, or change any obligation of ours to pay additional amounts under the indenture, except as contemplated in the indenture, or reduce the amount of the principal of an original issue discount security that would be due and payable upon a declaration of acceleration of the maturity thereof or the amount thereof provable in bankruptcy;
- adversely affect any right of repayment at the option of the holder of any series of outstanding debt security;
- change the place of repayment where, or the currency, currency unit or composite currency in which, the principal or premium, if any, of any debt security or the interest thereon is payable;
- impair the right to institute suit for the enforcement of any such payment after the stated maturity of the debt security (or in the case of redemption, on or after the redemption date);
- reduce the percentage in principal amount of outstanding debt securities of any series for which the consent of the holders is required for any such supplemental indenture, or for any waiver of compliance with certain provisions of the indenture or certain defaults, or reduce the requirements for quorum or voting as provided in the indenture; or
- modify any of the provisions that relate to supplemental indentures and that require the consent of holders, that relate to the waiver of past defaults, that relate to the waiver of certain covenants, except to increase the percentage in principal amount of outstanding debt securities required to take such actions or to provide that certain other provisions of the indenture cannot be modified or waived without the consent of the holder of each debt security affected thereby.

Unless we say otherwise in a prospectus supplement, we and the trustee may modify and amend either indenture without the consent of the holders if the modification or amendment does only the following:

- evidences the succession of another person to us and the assumption by any such successor of any covenants under the indenture and in the debt securities of any series;
- adds to our covenants for the benefit of the holders of all or any series of debt securities or surrenders any of our rights or powers;
- adds any additional event of default for the benefit of the holders of all or any series of debt securities;
- secures the debt securities of any series;
- adds or changes any provisions to the extent necessary to provide that bearer securities may be registrable as to principal, to change or eliminate any restrictions on the payment of principal of or any premium or interest on bearer securities, to permit bearer securities to be issued in exchange for registered securities or bearer of securities of other authorized denominations, or to permit or facilitate the issuance of securities in uncertificated form, provided that any such action shall not adversely affect the interests of the holders of any series of outstanding debt securities in any material respect;
- changes or eliminates any provision affecting only debt securities not yet issued;

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- establishes the form or terms of debt securities of any series not yet issued;
- evidences and provides for successor trustees or adds or changes any provisions of the indenture to the extent necessary to permit or facilitate the appointment of a separate trustee or trustees for specific series of debt securities;
- cures any ambiguity, corrects or supplements any provisions which may be defective or inconsistent with any other provision, or makes any other provisions with respect to matters or questions arising under the indenture which shall not be inconsistent with the provisions of the indenture; provided, however, that no such modification or amendment may adversely affect the interest of holders of debt securities of any series then outstanding in any material respect; or
- supplements any provision of the indenture to such extent as shall be necessary to permit the facilitation of defeasance and discharge of any series of debt securities; provided, however, that any such action may not adversely affect the interest of holders of debt securities of any series then outstanding in any material respect.

The holders of a majority in aggregate principal amount of the debt securities of a series outstanding may waive compliance with certain restrictive covenants and provisions of either indenture with respect to that series.

Original Issue Discount

We may issue debt securities under either indenture for less than their stated principal amount. Such securities may be treated as “original issue discount securities,” and they may be subject to special tax consequences. In addition, some debt securities that are offered and sold at their stated principal amount may, under certain circumstances, be treated as issued at an original issue discount for federal income tax purposes. We will describe the federal income tax consequences and other special consequences applicable to securities treated as original issue discount securities in the prospectus supplement relating to such securities. “Original issue discount security” generally means any debt security that:

- does not provide for the payment of interest prior to maturity; or
- is issued at a price lower than its face value and provides that upon redemption or acceleration of its stated maturity an amount less than its principal amount shall become due and payable.

Notices

Unless we say otherwise in a prospectus supplement, we will send notices to holders of debt securities by mail to the holder’s address as it appears in the register.

Governing Law

Unless we say otherwise in a prospectus supplement, each indenture and the debt securities will be governed by the laws of the State of New York.

DESCRIPTION OF SHARES OF BENEFICIAL INTEREST

We are a Maryland REIT. Your rights as a shareholder are governed by the Code of Maryland, including Title 8 of the Corporations and Associations Article, or Maryland REIT Law, our declaration of trust, our bylaws and our shareholder rights plan. The following summary of the material terms, rights and preferences of the shares of beneficial interest is not complete and is subject to and qualified in its entirety by reference to the laws of the State of Maryland, including Maryland REIT law, our declaration of trust, bylaws and shareholder rights plan and the articles supplementary with respect to our Series 1 preferred shares.

Authorized Shares

Our declaration of trust allows us to issue up to 100,000,000 common shares of beneficial interest, par value \$.01 per share, and 15,000,000 preferred shares of beneficial interest, par value \$.01 per share. As of June 11, 2009, we had issued and outstanding 59,156,354 common shares, and 399,896 preferred shares, which are designated as 5.417% Series 1 Cumulative Convertible Preferred Shares, which we refer to as the Series 1 preferred shares.

Authority of the Board of Trustees Relating to Authorization and Classification of Shares. Our declaration of trust allows our Board of Trustees to take the following actions without approval by you or any shareholder:

- classify or reclassify any authorized but unissued common shares or preferred shares into one or more classes or series of shares of beneficial interest;
- amend the declaration of trust to change the total number of shares of beneficial interest authorized; and
- amend the declaration of trust to change the authorized number of shares of any class or series of shares of beneficial interest.

If there are any laws or stock exchange rules which require us to obtain shareholder approval in order for us to take these actions, however, we will contact you and other shareholders to solicit that approval.

We believe that the power of the Board of Trustees to issue additional shares of beneficial interest will provide us with greater flexibility in structuring possible future financings and acquisitions and in meeting other future needs. Although the Board of Trustees does not currently intend to do so, it has the ability to issue a class or series of beneficial shares that could have the effect of delaying or preventing a change of our control that might involve a premium price for holders of our common shares or otherwise be favorable to them.

Common Shares

All common shares offered through this prospectus will be duly authorized, fully paid and nonassessable. As a shareholder, you will be entitled to receive distributions, or dividends, on the shares you own if the Board of Trustees authorizes a dividend to the holders of our common shares out of our legally available assets. Your right to receive those dividends may be affected, however, by the preferential rights of the Series 1 preferred shares or any other class or series of shares of beneficial interest and the provisions of our declaration of trust regarding restrictions on the transfer of shares of beneficial interest. For example, you may not receive dividends if no funds are available for distribution after we pay dividends to holders of preferred shares. In the event of our liquidation, dissolution or winding up, holders of our common shares will be entitled to share pro rata in all of our assets remaining after payment or provision for all of our debts and other liabilities and preferential amounts owing in respect of our Series 1 preferred shares and any other shares of beneficial interest having a priority over our common shares in the event of our liquidation, dissolution or winding up. As noted above under

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“— Authorized Shares,” our outstanding Series 1 preferred shares rank prior to our common shares with respect to the payment of dividends and as to the distribution of assets in the event of our liquidation, dissolution or winding up.

Voting Rights. Each outstanding common share owned by a shareholder entitles that holder to one vote on all matters submitted to a vote of common shareholders, including the election of trustees. The right to vote is subject to the provisions of our declaration of trust regarding the restriction of the transfer of shares of beneficial interest, which we describe under “— Restrictions on Ownership and Transfer,” below. There is no cumulative voting in the election of trustees, which means that, under Maryland law and our bylaws, the holders of a plurality of all of the votes cast at a meeting of shareholders duly called and at which a quorum is present can elect a trustee. The holders of the remaining shares will not be able to elect any trustees.

As a holder of a common share, you will not have any right to:

- convert your shares into any other security;
- have any funds set aside for future payments;
- require us to repurchase your shares; or
- purchase any of our securities, if other securities are offered for sale, other than as a member of the general public.

Subject to the terms of our declaration of trust regarding the restrictions on transfer of shares of beneficial interest, each common share has the same dividend, distribution, liquidation and other rights as each other common share.

According to the terms of our declaration of trust and bylaws, and Maryland law, all matters submitted to the shareholders for approval, except for those matters listed below, are approved if a majority of all the votes cast at a meeting of shareholders duly called and at which a quorum is present are voted in favor of approval. The following matters require approval other than by a majority of all votes cast:

- the election of trustees (which requires a plurality of all the votes cast at a meeting of our shareholders at which a quorum is present), provided, however, that if any trustee does not receive a majority of all the votes cast where the number of nominees is the same as the number of trustees to be elected, such trustee shall tender his or her resignation within five business days after certification of the vote and such resignation shall be acted upon by our Board of Trustees within sixty days of such certification;
- the removal of trustees (which requires the affirmative vote of the holders of two-thirds of the number of shares outstanding and entitled to vote on such a matter if the removal is approved or recommended by a vote of at least two-thirds of the Board of Trustees or the affirmative vote of the holders of not less than 80% of the number of shares then outstanding and entitled to vote on such matter if the removal is not approved or recommended by a vote of at least two-thirds of the Board of Trustees);
- the amendment of our declaration of trust by shareholders (which requires the affirmative vote of two-thirds of all votes entitled to be cast on the matter only if the amendment was not approved by a unanimous vote of the Board of Trustees, but requires the affirmative vote of only a majority of votes entitled to be cast on the matter if the amendment was approved by a unanimous vote of the Board of Trustees);
- our termination, winding up of affairs and liquidation (which requires, after approval by a majority of the entire Board of Trustees, the affirmative vote of two-thirds of all the votes entitled to be cast on the matter); and

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- our merger or consolidation with another entity or sale of all or substantially all of our property (which requires the approval of the Board of Trustees and an affirmative vote of two-thirds of all the votes entitled to be cast on the matter).

Our declaration of trust permits the Board of Trustees to revoke our election to be taxed as a REIT under the Code or to determine that compliance with any restriction or limitations on ownership and transfers of shares set forth in the declaration of trust is no longer required in order for us to qualify as a REIT. Our declaration of trust also permits the Board of Trustees to amend the declaration of trust from time to time, without approval by you or the other shareholders, to:

- qualify as a real estate investment trust under Maryland REIT law or the Code; or
- to increase or decrease the authorized aggregate number of shares and number of authorized shares of any class or series.

In addition, any provision of our bylaws may be adopted, altered or repealed either by our Board of Trustees, subject to certain limitations contained in our bylaws, without any action by the shareholders or by the shareholders at any meeting of shareholders called for that purpose, by the affirmative vote of holders of not less than a majority of the shares then outstanding and entitled to vote.

Preemptive Rights. Under the declaration of trust, no holder of shares of beneficial interest has any preemptive rights to subscribe to any issuance of additional shares. The board of trustees, in classifying or reclassifying any unissued shares of beneficial interest, however, has the right to grant holders of shares preemptive rights to purchase or subscribe for additional shares of beneficial interest or other securities.

Stock Exchange Listing. The common shares are traded on the New York Stock Exchange under the trading symbol "FRT."

Transfer Agent and Registrar. The transfer agent and registrar for the common shares is American Stock Transfer & Trust Company, New York, New York.

Series 1 Preferred Shares

In March 2007, we issued 399,896 Series 1 preferred shares and we filed articles supplementary to our declaration of trust setting forth the terms of the Series 1 preferred shares. Below is a brief description of the terms of the Series 1 preferred shares, which is subject to and qualified in its entirety by reference to the articles supplementary.

Rank. The Series 1 preferred shares rank prior to the common shares with respect to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up. Our declaration of trust provides that, unless full cumulative dividends on all outstanding Series 1 preferred shares and any other class or series of our shares of beneficial interest ranking, as to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, on a parity with the Series 1 preferred shares, or Parity Shares, shall have been declared and paid or declared and set apart for payment for all past dividend periods, then no dividends, other than dividends paid solely in common shares, or options, warrants or rights to subscribe for or purchase common shares, or any other shares of beneficial interest which rank junior to the Series 1 preferred shares with respect to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up, or Junior Shares, shall be declared or paid or set apart for payment on the common shares nor shall any Junior Shares be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of common shares made for purposes of any employee incentive or benefit plan of ours) for any consideration by us, directly or indirectly (except by conversion into or exchange for shares of Junior Shares).

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Dividends. Each Series 1 preferred share is entitled to receive, when, as and if authorized by our Board of Trustees out of funds legally available for that purpose, cumulative preferential dividends payable in cash at a rate of 5.417% of the liquidation price of \$25, which is equivalent to \$1.35425 per annum.

Liquidation Preference. In the event of our liquidation, dissolution or winding up, the holders of Series 1 preferred shares shall be entitled to receive \$25 per share, plus all accrued and unpaid dividends, before any distribution shall be made with respect to the common shares.

Voting Rights. The Series 1 preferred shares shall have no voting rights.

Conversion Rights. Subject to other applicable provisions within the articles supplementary for the Series 1 preferred shares, from the date of issuance, the Series 1 preferred shares shall be convertible, at the option of each holder, into a number of fully paid and nonassessable common shares determined by dividing (A) the product obtained by multiplying (i) the number of Series 1 preferred shares being converted by (ii) liquidation price; by (B) the option conversion price as in effect immediately prior to the close of business on the option conversion date.

Transfer Agent and Registrar. The transfer agent and registrar for the Series 1 preferred shares is American Stock Transfer & Trust Company, New York, New York.

Preferred Shares

In addition to the Series 1 preferred shares, the terms of which are described above, we may issue one or more series of preferred shares. The following is a general description of the preferred shares that we may offer from time to time. The particular terms of the preferred shares being offered and the extent to which such general provisions may apply will be set forth in the applicable prospectus supplement.

General. Preferred shares may be offered and sold from time to time, in one or more series, as authorized by the Board of Trustees. The Board of Trustees is authorized by Maryland law and our declaration of trust to set for each series the terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to distributions, qualifications and terms or conditions of redemption. The Board of Trustees has the power to set preferences, powers and rights, voting or other terms of preferred shares that are senior to, or better than, the rights of holders of common shares or other classes or series of preferred shares. The offer and sale of preferred shares could have the effect of delaying or preventing a change of our control that might involve a premium price for holders of our common shares or otherwise be favorable to them.

Terms. You should refer to the prospectus supplement relating to the offering of any preferred shares for specific terms, including the following terms:

- the title of those preferred shares;
- the number of preferred shares offered and the offering price of those preferred shares;
- the dividend rate(s), period(s), amounts and/or payment date(s) or method(s) of calculation of any of those terms that apply to those preferred shares;
- the date from which dividends on those preferred shares will accumulate, if applicable;
- the terms and amount of a sinking fund, if any, for the purchase or redemption of those preferred shares;
- the redemption rights, including conditions, time(s) and the redemption price(s), if applicable, of those preferred shares;

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- the voting rights, if any, of those preferred shares;
- any listing of those preferred shares on any securities exchange;
- the terms and conditions, if applicable, upon which those preferred shares will be convertible into common shares or any of our other securities, including the conversion price or rate (or manner of calculation thereof);
- the relative ranking and preference of those preferred shares as to dividend rights and rights upon liquidation, dissolution or the winding up of our affairs;
- any limitations on issuance of any series of preferred shares ranking senior to or on a parity with that series of preferred shares as to dividend rights and rights upon liquidation, dissolution or the winding up of our affairs;
- the procedures for any auction and remarketing, if any, for those preferred shares;
- any other specific terms, preferences, rights, limitations or restrictions of those preferred shares;
- a discussion of any additional federal income tax consequences applicable to those preferred shares; and
- any limitations on direct or beneficial ownership and restrictions on transfer in addition to those described in “— Restrictions on Ownership and Transfer,” in each case as may be appropriate to preserve our status as a REIT.

The terms of any preferred shares we issue through this prospectus will be set forth in articles supplementary to our declaration of trust. We will file the articles supplementary as an exhibit to the registration statement that includes this prospectus, or as an exhibit to a filing with the SEC that is incorporated by reference into this prospectus. The description of preferred shares in any prospectus supplement will not describe all of the terms of the preferred shares in detail. You should read the applicable articles supplementary for a complete description of all of the terms.

Rank. Unless we say otherwise in a prospectus supplement, the preferred shares offered through that supplement will, with respect to dividend rights and rights upon our liquidation, dissolution or winding up, rank:

- senior to all classes or series of our common shares, and to all other equity securities ranking junior to those preferred shares;
- on a parity with all of our equity securities ranking on a parity with the preferred shares; and
- junior to all of our equity securities ranking senior to the preferred shares.

For purposes of this description of our preferred shares, the term “equity securities” does not include convertible debt securities that we may offer from time to time.

Dividends. Subject to any preferential rights of any outstanding shares or series of shares and to the provisions of our declaration of trust regarding ownership of shares in excess of the ownership limitation described below under “— Restrictions on Ownership and Transfer,” our preferred shareholders are entitled to receive dividends, when and as authorized by our Board of Trustees, out of legally available funds.

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Redemption. If we provide for a redemption right in a prospectus supplement, the preferred shares offered through that supplement 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 that supplement.

Liquidation Preference. As to any liquidation preference applicable to preferred shares offered through this prospectus, the applicable supplement shall provide that, upon the voluntary or involuntary liquidation, dissolution or winding up of our affairs, the holders of those preferred shares shall receive, before any distribution or payment shall be made to the holders of any other class or series of shares ranking junior to those preferred shares in our distribution of assets upon any liquidation, dissolution or winding up, and after payment or provision for payment of our debts and other liabilities, out of our assets legally available for distribution to stockholders, liquidating distributions in the amount of any liquidation preference per share (set forth in the applicable supplement), plus an amount, if applicable, equal to all distributions accrued and unpaid thereon (not including any accumulation in respect of unpaid distributions for prior distribution periods if those preferred shares do not have a cumulative distribution). After payment of the full amount of the liquidating distributions to which they are entitled, the holders of those preferred shares will have no right or claim to any of our remaining assets. In the event that, upon our voluntary or involuntary liquidation, dissolution or winding up, the legally available assets are insufficient to pay the amount of the liquidating distributions on all of those outstanding preferred shares and the corresponding amounts payable on all of our shares of other classes or series of equity security ranking on a parity with those preferred shares in the distribution of assets upon liquidation, dissolution or winding up, then the holders of those preferred shares and all other such classes or series of equity security 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 the liquidating distributions are made in full to all holders of preferred shares entitled to receive those distributions prior to any other classes or series of equity security ranking junior to the preferred shares upon our liquidation, dissolution or winding up, then our remaining assets shall be distributed among the holders of those junior classes or series of equity shares, in each case according to their respective rights and preferences and their respective number of shares.

Voting Rights. Unless otherwise indicated in the applicable supplement, holders of preferred shares we issue in the future will not have any voting rights, except as may be required by applicable law or any applicable rules and regulations of the New York Stock Exchange.

Conversion Rights. The terms and conditions, if any, upon which any series of preferred shares is convertible into common shares will be set forth in the prospectus supplement relating to the offering of those preferred shares. These terms typically will include:

- the number of common shares into which the preferred shares are convertible;
- the conversion price or rate (or manner of calculation thereof);
- the conversion period;
- provisions as to whether conversion will be at the option of the holders of the preferred shares or at our option;
- the events requiring an adjustment of the conversion price; and
- provisions affecting conversion in the event of the redemption of that series of preferred shares.

Transfer Agent and Registrar. We will identify the transfer agent and registrar for any additional series of preferred shares issued through this prospectus in a prospectus supplement.

Depository Shares

General. We may issue receipts for depository shares, each of which will represent a fractional interest of a share of a particular series of preferred shares. We will deposit the preferred shares of any series represented by depository shares with a depository under a deposit agreement. We will identify the depository in a prospectus supplement. Subject to the terms of the deposit agreement, if you own a depository share, you will be entitled, in proportion to the fraction of the preferred share represented by your depository share, to all of the rights and preferences to which you would be entitled if you owned the preferred share represented by your depository share directly (including dividend, voting, redemption, conversion, subscription and liquidation rights).

The depository shares will be represented by depository receipts issued pursuant to the applicable deposit agreement. Immediately following the issuance and delivery of our preferred shares to the depository, we will cause the depository to issue, on our behalf, the depository receipts. Upon request, we will provide you with copies of the applicable form of deposit agreement and depository receipt.

Dividends and Other Provisions. If you are a “record holder” (as defined below) of depository receipts and we pay a cash dividend or other cash distribution with respect to the preferred share represented by your depository share, the depository will distribute all cash dividends or other cash distributions it receives in respect of the preferred shares represented by your depository receipts in proportion to the number of depository shares you owned on the record date for that dividend or distribution.

If we make a distribution in a form other than cash, the depository will distribute the property it receives to you and all other record holders of depository receipts in an equitable manner, unless the depository determines that it is not feasible to do so. If the depository decides it cannot feasibly distribute the property, it may sell the property and distribute the net proceeds from the sale to you and the other record holders. The amount the depository distributes in any of the foregoing cases may be reduced by any amounts that we or the depository is required to withhold on account of taxes.

A “record holder” is a person who holds depository receipts on the record date for any dividend, distribution or other action. The record date for depository shares will be the same as the record date for the preferred shares represented by those depository receipts.

Withdrawal of Preferred Shares. If you surrender your depository receipts, the depository will be required to deliver certificates to you evidencing the number of preferred shares represented by those receipts (but only in whole shares). If you deliver depository receipts representing a number of depository shares that is greater than the number of whole shares to be withdrawn, the depository will deliver to you, at the same time, a new depository receipt evidencing the fractional shares.

Redemption of Depository Shares. If we redeem a series of preferred shares represented by depository receipts, the depository will redeem depository shares from the proceeds it receives after redemption of the preferred shares. The redemption price per depository share will equal the applicable fraction of the redemption price per share payable with respect to that series of preferred shares. If fewer than all the depository shares are to be redeemed, the depository will select shares to be redeemed by lot, pro rata or by any other equitable method it may determine. After the date fixed for redemption, the depository shares called for redemption will no longer be outstanding. All rights of the holders of those depository shares will cease, except the right to receive the redemption price that the holders of the depository shares were entitled to receive upon redemption. Payments will be made when holders surrender their depository receipts to the depository.

Voting the Preferred Shares. When the depository receives notice of any meeting at which the holders of preferred shares are entitled to vote, the depository will mail information contained in the notice to you as a record holder of the depository shares relating to the preferred shares. As a record holder of the depository shares on the record date (which will be the same date as the record date for the preferred shares), you will be entitled to

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instruct the depositary as to how you would like your votes to be exercised. The depositary will endeavor, insofar as practicable, to vote the number of preferred shares represented by your depositary shares in accordance with your instructions. We will agree to take all reasonable action that the depositary may deem necessary to enable the depositary to do this. If you do not send specific instructions the depositary will not vote the preferred shares represented by your depositary shares.

Liquidation Preference. In the event of our liquidation, dissolution or winding up, whether voluntary or involuntary, you will be entitled, as a record holder of depositary shares, to the fraction of the liquidation preference accorded each applicable preferred share, as has been set forth in a prospectus supplement.

Conversion of Preferred Shares. Our depositary shares, as such, are not convertible into common shares or any of our other securities or property. Nevertheless, if so specified in a prospectus supplement, the depositary receipts may be surrendered by their holders to the depositary with written instructions to the depositary to instruct us to cause conversion of the preferred shares represented by the depositary shares into whole common or preferred shares, as the case may be. We will agree that, upon receipt of this type of instructions and any amounts payable, we will convert the depositary shares using the same procedures as those provided for delivery of preferred shares to effect such conversion. If the depositary shares are to be converted in part only, one or more new depositary receipts will be issued for any depositary shares not to be converted. No fractional common shares will be issued upon conversion, and if such conversion will result in issuance of a fractional share, we will pay an amount of cash equal to the value of the fractional interest based upon the closing price of the common shares on the last business day prior to the conversion.

Amendment and Termination of the Deposit Agreement. We and the depositary may amend the form of depositary receipt and any provision of the deposit agreement at any time. However, any amendment which materially and adversely alters your rights as a holder of depositary shares will not be effective unless the holders of at least a majority of the depositary shares then outstanding approve the amendment. The deposit agreement will only terminate if:

- we redeem all outstanding depositary shares;
- we make a final distribution in respect of the preferred shares to which the depositary shares and agreement relate, including in connection with any liquidation, dissolution or winding up and the distribution has been distributed to the holders of depositary shares; or
- each preferred share to which the depositary shares and agreement relate shall have been converted into shares of beneficial interest not represented by depositary shares.

Resignation and Removal of Depositary. The depositary may resign at any time by delivering a notice to us of its election to do so. Additionally, we may remove the depositary at any time. Any resignation or removal will take effect when we appoint a successor depositary and the successor accepts the appointment. We must appoint a successor depositary within 60 days after delivery of the notice of resignation or removal. A successor depositary must be a bank or trust company having its principal office in the U.S. and having a combined capital and surplus of at least \$50 million.

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 shares and issuance of depositary receipts, all withdrawals of preferred shares by owners of the depositary shares and any redemption of the preferred shares. You will pay other transfer and other taxes, governmental charges and other charges expressly provided for in the deposit agreement.

Miscellaneous. The depositary will forward to you all reports and communications from us that we are required, or otherwise determine, to furnish to the holders of the preferred shares. The holders of depositary

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receipts shall have the right to inspect the transfer books of the depositary and the list of holders of depositary receipts as provided in the applicable deposit agreement or as required by law.

Neither we nor the depositary will be liable under the deposit agreement to you other than for the depositary's gross negligence, willful misconduct or bad faith. Neither we nor the depositary will be obligated to prosecute or defend any legal proceeding in respect of any depositary shares or preferred shares unless satisfactory indemnity is furnished. We and the depositary may rely upon written advice of counsel or accountants, or upon information provided by persons presenting preferred shares for deposit, holders of depositary receipts or other persons believed to be competent and on documents believed to be genuine.

Restrictions on Ownership and Transfer

Restrictions on ownership and transfer of shares are important to ensure that we meet certain conditions under the Code to qualify as a REIT. For example, the Code contains the following requirements.

- No more than 50% in value of a REIT's shares may be owned, actually or constructively (based on attribution rules in the Code), by five or fewer individuals during the last half of a taxable year or a proportionate part of a shorter taxable year, which we refer to as the 5/50 Rule. Under the Code, individuals include certain tax-exempt entities except that qualified domestic pension funds are not generally treated as individuals.
- If a REIT, or an owner of 10% or more of a REIT, is treated as owning 10% or more of a tenant of the REIT's property, the rent received by the REIT from the tenant will not be "qualifying income" for purposes of the REIT gross income tests of the Code.
- A REIT's stock or beneficial interests must be owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year.

In order to maintain our qualification as a REIT, our declaration of trust, subject to certain exceptions described below, provides that no person may own, or be deemed to own by virtue of the attribution provisions of the Code, more than 9.8% (in value or in number of shares, whichever is more restrictive) of the outstanding common shares or more than 9.8% in value of our outstanding capital stock. In this prospectus, the term "ownership limitation" is used to describe this provision of our declaration of trust.

Any transfer of shares will be null and void, and the intended transferee will acquire no rights in such shares if the transfer:

- results in any person owning, directly or indirectly, shares in excess of the ownership limitation;
- results in the shares being owned by fewer than 100 persons (determined without reference to any rules of attribution);
- results in our being "closely held" (within the meaning of Section 856(h) of the Code);
- causes us to own, directly or constructively, 10% or more of the ownership interests in a tenant of our real property (within the meaning of Section 856(d)(2)(B) of the Code); or
- otherwise results in our failure to qualify as a REIT.

Automatic Transfer of Shares to Trust. With certain exceptions described below, if any purported transfer of shares would violate any of the restrictions described in the immediately preceding paragraph, then the transfer will be null and void, and those shares will be designated as "shares-in-trust" and transferred automatically to a charitable trust. The transfer to the trust is effective as of the end of the business day before the

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purported transfer of such shares. The record holder of the shares that are designated as shares-in-trust must deliver those shares to us for registration in the name of the trust. We will designate a trustee who is not affiliated with us. The beneficiary of the trust will be one or more charitable organizations named by us.

Any shares-in-trust remain issued and outstanding shares and are entitled to the same rights and privileges as all other shares of the same class or series. The trust receives all dividends and distributions on the shares-in-trust and holds such dividends and distributions in trust for the benefit of the beneficiary. The trustee votes all shares-in-trust. The trustee shall also designate a permitted transferee of the shares-in-trust. The permitted transferee must purchase the shares-in-trust for valuable consideration and acquire the shares-in-trust without resulting in the transfer being null and void.

The record holder with respect to shares-in-trust must pay the trust any dividends or distributions received by such record holder that are attributable to any shares-in-trust if the record date for those shares-in-trust was on or after the date that such shares became shares-in-trust. Upon sale or other disposition of the shares-in-trust to a permitted transferee, the record holder generally will receive from the trustee, the lesser of:

- the price per share, if any, paid by the record holder for the shares; or
- if no amount was paid for such shares (e.g., if such shares were received through a gift or devise),
 - the price per share equal to the market price (which is calculated as defined in our declaration of trust) on the date the shares were received, or
 - the price per share received by the trustee from the sale of such shares-in-trust.

Any amounts received by the trustee in excess of the amounts paid to the record owner will be distributed to the beneficiary. Unless sooner sold to a permitted transferee, upon our liquidation, dissolution or winding up, the record owner generally will receive from the trustee its share of the liquidation proceeds but in no case more than the price per share paid by the record owner or, in the case of a gift or devise, the market price per share on the date such shares were received by the trust.

The shares-in-trust will be offered for sale to us, or our designee, at a price per share equal to the lesser of the price per share in the transaction that created the shares-in-trust (or, in the case of a gift or devise, the market price per share on the date of such transfer) or the market price per share on the date that we, or our designee, accepts such offer. We may accept such offer until the trustee has sold the shares-in-trust as provided above.

Any person who acquires or attempts to acquire shares which would be null and void under the restrictions described above, or any person who owned common shares or preferred shares that were transferred to a trust, must both give us immediate written notice of such event and provide us such other information as requested in order to determine the effect, if any, of such transfer on our status as a REIT.

If a shareholder owns more than 5% of the outstanding common shares or preferred shares, then the shareholder must notify us of its share ownership by January 30 of each year.

The ownership limitation generally does not apply to the acquisition of shares by an underwriter that participates in a public offering of such shares. In addition, the Board of Trustees may exempt a person from the ownership limitation under certain circumstances and conditions. The restrictions on ownership and transfer described in this section of this prospectus will continue to apply until the Board of Trustees determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

The Board of Trustees has agreed to exempt from the ownership limitation Morgan Stanley Investment Management, Inc., or MSIM, for itself and on behalf of its investment advisory clients on whose behalf MSIM owns our common shares. The Board of Trustees approved an exemption for MSIM, which expires on May 3, 2010 and which permits MSIM and its clients, as a group to own up to 12.0% of our outstanding common shares.

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The ownership limitation could have the effect of delaying, deferring or preventing a transaction or a change in our control that might involve a premium price for the common shares or preferred shares or otherwise be in the best interest of our shareholders. All certificates representing shares will bear a legend referring to the restrictions described above.

Warrants

Warrants. We may issue warrants for the purchase of common or preferred shares. If we offer warrants, we will describe the terms in a prospectus supplement. Warrants may be offered independently, together with other securities offered by any prospectus supplement, or through a dividend or other distribution to shareholders and may be attached to or separate from other securities. Warrants may be issued under a written warrant agreement to be entered into between us or the holder or beneficial owner, or we could issue warrants pursuant to a written warrant agreement with a warrant agent specified in a prospectus supplement. A warrant agent would act solely as our agent in connection with the warrants of a particular series and would not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of such warrants.

The following are some of the warrant terms that could be described in a prospectus supplement:

- the title of the warrant;
- the aggregate number of warrants;
- the price or prices at which the warrant will be issued;
- the designation, number and terms of the preferred shares or common shares that may be purchased on exercise of the warrant;
- the date, if any, on and after which the warrant and the related securities will be separately transferable;
- the price at which each security purchasable on exercise of the warrant may be purchased;
- the dates on which the right to purchase the securities purchasable on exercise of the warrant will begin and end;
- the minimum or maximum number of securities that may be purchased at any one time;
- any anti-dilution protection;
- information with respect to book-entry procedures, if any;
- a discussion of certain federal income tax considerations; and
- any other warrant terms, including terms relating to transferability, exchange or exercise of the warrant.

Certain Provisions of Maryland Law and our Declaration of Trust and Bylaws

The following summary of certain provisions of the Maryland General Corporation Law and our declaration of trust and bylaws is not complete. You should read the Maryland General Corporation Law and our declaration of trust and bylaws for more complete information.

The following provisions, together with the ability of the Board of Trustees to increase the number of authorized shares, in the aggregate or by class, and to issue preferred shares without further stockholder action, the transfer restrictions described under “— Restrictions on Ownership and Transfer” and the supermajority

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voting rights described under “— Common Shares — Voting Rights,” may delay or frustrate the removal of incumbent trustees or the completion of transactions that would be beneficial, in the short term, to our shareholders. The provisions may also discourage or make more difficult a merger, tender offer, other business combination or proxy contest, the assumption of control by a holder of a large block of our securities or the removal of incumbent management, even if these events would offer our shareholders a premium price on their securities or otherwise be favorable to the interests of our shareholders.

Business Combinations. Applicable Maryland law, as set forth in the Maryland General Corporation Law, limits our ability to enter into “business combinations” and other corporate transactions, including a merger, consolidation, share exchange, or, in certain circumstances, an asset transfer or issuance of equity securities when the combination is between us and an “interested shareholder” (as defined below) or an affiliate of an “interested shareholder.” An interested shareholder is:

- any person who beneficially owns 10% or more of the voting power of our outstanding voting shares; or
- any of our affiliates that beneficially owned, directly or indirectly, 10% or more of the voting power of our outstanding voting shares at any time within two years immediately prior to the applicable date in question.

We may not engage in a business combination with an interested shareholder or any of its affiliates for five years after the interested shareholder becomes an interested shareholder. This prohibition does not apply to business combinations involving us that are exempted by the Board of Trustees before the interested shareholder becomes an interested shareholder.

We may engage in business combinations with an interested shareholder if at least five years have passed since the person became an interested shareholder, but only if the transaction is:

- recommended by our Board of Trustees; and
- approved by at least,
 - 80% of our outstanding shares entitled to vote; and
 - two-thirds of our outstanding shares entitled to vote that are not held by the interested shareholder or any of its affiliates.

Shareholder approval will not be required if our common shareholders receive a minimum price (as defined in the statute) for their shares and our shareholders receive cash or the same form of consideration as the interested shareholder paid for its shares.

Control Share Acquisitions. Our bylaws exempt acquisitions of our shares of beneficial interest by any person from “control share acquisition” requirements discussed below. With the approval of our Board of Trustees, and of shareholders holding at least a majority of shares outstanding and entitled to vote on the matter, however, we could modify or eliminate the exemption in the future. If the exemption were eliminated, “control share acquisitions” would be subject to the following provisions.

The Maryland General Corporation Law provides that “control shares” of a Maryland REIT acquired in a “control share acquisition” have no voting rights unless two-thirds of the shareholders (excluding shares owned by the acquirer and by the officers and trustees who are employees of the Maryland REIT) approve their voting rights.

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“Control Shares” are shares that, if added to all other shares previously acquired, would entitle that person to exercise voting power, in electing trustees, within one of the following ranges of voting power:

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

Control shares do not include shares the acquiring person is entitled to vote with shareholder approval. A “control share acquisition” means the acquisition of control shares, subject to certain exceptions.

If this provision becomes applicable to us, a person who has made or proposes to make a control share acquisition could, under certain circumstances, compel our Board of Trustees to call a special meeting of shareholders to consider the voting rights of the control shares. We could also present the question at any shareholders’ meeting on our own.

If this provision becomes applicable to us, subject to certain conditions and limitations, we would be able to redeem any or all control shares. If voting rights for control shares were approved at a shareholders’ meeting and the acquirer were entitled to vote a majority of the shares entitled to vote, all other shareholders could exercise appraisal rights and exchange their shares for a fair value as defined by statute.

Rights Plan. On April 13, 1989, we adopted a shareholder rights plan and declared a dividend distribution of one right for each outstanding common share to shareholders of record at the close of business on April 24, 1989, with such rights to expire on April 24, 1999. On March 11, 1999, the expiration date of the rights plan was extended ten years and certain other amendments to the terms of the rights plan were adopted. On November 23, 2003, the rights plan was modified to increase the triggering ownership threshold to 20% and to add a provision commonly called a “TIDE” provision requiring that the independent trustees of the Board of Trustees review the rights under the rights plan every three years. On March 16, 2009, the rights plan was further amended to extend the expiration date for an additional three years and to add a provision commonly called a “qualified offer” provision, which is explained below. Except as set forth below, each right, as amended, when exercisable, entitles the registered holder to purchase from us a number of common shares (or fractional shares) having a then-current market value of two times the purchase price, initially equal to \$65.00 per share, subject to adjustment upon the occurrence of specified events.

The rights become exercisable upon the distribution date, which shall be the earlier to occur of:

- a public announcement that, without the prior consent of the Board of Trustees, a person or group of affiliated or associated persons has acquired, or obtained the right to acquire, beneficial ownership of 20% or more of our common shares (without regard to the ownership limits contained within our declaration of trust); or
- ten days following the commencement of (or a public announcement of an intention to make) a tender offer or exchange offer that would result in the beneficial ownership by a person or group of affiliated or associated persons of 20% or more of our common shares.

Initially, the rights will be attached to, and evidenced by, the common shares certificates representing shares then outstanding, and no separate right certificates will be distributed. Once the rights become exercisable, separate certificates evidencing the rights will be mailed as soon as practicable to holders of record of our common shares as of the close of business on the distribution date, and the separate rights certificates alone will evidence the rights.

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In general, the rights will expire on the earliest of

- April 24, 2012;
- consummation of a merger transaction with a person or group who acquired common shares pursuant to a transaction approved by the Board of Trustees; or
- redemption by us as described below.

In the event that the rights become exercisable, each holder of a right will for a 60-day period thereafter have the right to receive upon exercise and payment of the purchase price (initially \$65.00, but subject to adjustment) that number of our common shares (or fractional shares) having a then-current market value of two times the purchase price, subject to the availability of a sufficient number of authorized but unissued common shares. We are entitled (but not required) to deliver, upon exercise of the right, in lieu of common shares, shares of equivalent securities.

In the event that, after the first date that the rights become exercisable, we are involved in a merger or other business combination transaction in which our common shares are exchanged or changed, or 50% or more of our assets or earning power are sold (in one transaction or a series of transactions), each holder of a right (other than the person or group triggering the exercise of the rights) shall thereafter have the right to receive, upon the exercise thereof at the then-current purchase price, that number of common shares of the acquiring company (or, in the event there is more than one acquiring company, the acquiring company receiving the greatest portion of the assets or earning power transferred), which at the time of such transaction would have a market value equal to two times the then-current purchase price of the right.

At any time prior to the earlier to occur of the date the rights become exercisable or the expiration of the rights, we may redeem the rights in whole, but not in part, at a price of \$0.01 per right, payable in cash or common shares, which redemption shall be effective upon the authorization of the Board of Trustees. Additionally, after the date the rights become exercisable, we may redeem the then-outstanding rights in whole, but not in part, at a price of \$0.01 per right income provided that the redemption is incidental to a merger or other business combination transaction or series of transactions involving us but not involving the person or group triggering the exercise of the rights, or if the redemption occurs after the expiration of a period during which our shareholders may acquire common shares through the exercise of the rights and, at that time, the person or group that triggered the exercise of the rights no longer has beneficial ownership of 20% or more of our common shares.

In the event we receive a qualified offer and we do not redeem the rights, within 90 days thereafter, then, upon request from holders (other than the offeror and its affiliates or associates or any officer or trustee of ours) of at least 10% of the outstanding common shares for the calling of a special meeting, we will hold a special meeting within 60 days after receipt of such a request. If, at such meeting, holders of more than 50% of the outstanding common shares (other than shares of the offeror or its affiliates or associates or any officer or trustee of ours) vote for redemption of the rights, then we will thereafter redeem the rights (or take similar action) as promptly as practicable. If such a meeting is not held on or prior to the 60th day after a qualifying request is received (which period shall be extended if we are exercising reasonable efforts to hold such a meeting and have been prevented by circumstances reasonably beyond our control), we shall promptly thereafter redeem the rights (or take similar action). However, we are not required to hold such a meeting unless the qualified offer at issue has an expiration date which is at least 10 business days after such meeting, and any obligations of us to hold such a meeting or to redeem the rights in connection therewith are null and void in the event any person, entity or group acquires, or obtains the right to acquire, beneficial ownership of 20% or more of our common shares.

A qualified offer shall mean a tender offer which, among other things, (a) is an all-cash offer for all common shares at a price per share which is at least higher of (x) \$97; or (y) an amount equal to 25% higher than the higher of (1) the average closing price of the common shares over the period of 30 trading days

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immediately preceding commencement of the offer or (2) the average closing price of the common shares over the period of five trading days immediately preceding commencement of the offer, (b) includes a firm financing commitment which, when added to the offeror's cash, will be sufficient, (c) has a non-waivable condition that the offeror must own, after consummating the offer, at least 50% of the common shares then outstanding (other than common shares already held by such offeror and its affiliates or associates or any trustee or officer of ours), (d) stays open for at least 60 business days (extended for any increase in price) and (e) commits the offeror to buy all other common shares at the same price paid pursuant to the offer.

In any event, upon the effective date of the redemption of the rights, the right to exercise the rights will terminate and the only right of the holders of rights will be to receive the price of \$0.01 per right.

Until a right is exercised, the holder thereof, as such, will have no rights as one of our shareholders, including, without limitation, the right to vote or to receive dividends.

Duties of Trustees. Under Maryland law, there is a presumption that the act of a trustee satisfies the required standard of care. An act of a trustee relating to or affecting an acquisition or a potential acquisition of control is not subject under Maryland law to a higher duty or greater scrutiny than is applied to any other act of a trustee.

Number of Trustees. The number of trustees may be increased or decreased pursuant to the bylaws, provided that the total number of trustees may not be less than five or more than 10. Under Maryland law and our declaration of trust, trustees are elected for one-year terms.

Removal of Trustees. Under the declaration of trust, and subject to the rights of any holders of preferred shares, our trustees may remove a trustee with cause, as defined in our declaration of trust, by the vote of all the other trustees or the shareholders may remove a trustee, with or without cause, at any meeting of shareholders called for that purpose, either by:

- the affirmative vote of the holders of two-thirds of the number of shares outstanding and entitled to vote on that matter if the removal is approved or recommended by a vote of at least two-thirds of the Board of Trustees; or
- the affirmative vote of the holders of not less than 80% of the number of shares then outstanding and entitled to vote on that matter if the removal is not approved or recommended by a vote of at least two-thirds of the Board of Trustees.

Vacancies on the Board of Trustees. The bylaws provide that, subject to the rights of any holders of preferred shares, any vacancy on the Board of Trustees, including a vacancy created by an increase in the number of trustees, may be filled by vote of a majority of the remaining trustees, or, if the trustees fail to act, at a meeting called for that purpose by the vote of a majority of the shares entitled to vote on the matter. Each trustee so elected shall serve for the unexpired term of the trustee he is replacing.

Meetings of Shareholders. Our bylaws provide for an annual meeting of shareholders, to be held in May after delivery of the annual report to shareholders, to elect individuals to the Board of Trustees and transact such other business as may properly be brought before the meeting. Special meetings of shareholders may be called by our Chairman of the Board of Trustees, Chief Executive Officer, President or by one-third of the Board of Trustees, and shall be called at the request in writing of the holders of 25% of all votes entitled to be cast at the meeting.

Our declaration of trust provides that any action required or permitted to be taken at a meeting of shareholders may be taken without a meeting, if a majority of shares entitled to vote on the matter (or such larger proportion as shall be required to take the action) consent to the action in writing and the written consents are filed with the records of the meetings of shareholders.

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Advance Notice for Shareholder Nominations and Shareholder New Business Proposals. Our bylaws require advance written notice for shareholders to nominate a trustee or bring other business before a meeting of shareholders. For an annual meeting, to nominate a trustee or bring other business before a meeting of shareholders, a shareholder must deliver notice to our Secretary not later than the close of business on the 120th day prior to the first anniversary of the date of the proxy statement relating to the preceding year's annual meeting. If the date of the annual meeting is changed by more than 30 days from the date of the preceding year's meeting or if we did not hold an annual meeting the preceding year, notice must be delivered within a reasonable time before we begin to print and mail our proxy materials.

For a special meeting, to nominate a trustee, a shareholder must deliver notice to our Secretary not earlier than the close of business on the 120th day prior to the special meeting and not later than the close of business on the later of the 90th day prior to the special meeting or the 10th day following the date on which public announcement is first made of the special meeting. Nominations for elections to the Board of Trustees may be made at a special meeting by shareholders of record both at the time of giving of notice of the special meeting and at the time of the special meeting and who are entitled to vote at the special meeting and who complied with the notice procedures in our bylaws only (a) pursuant to the notice of special meeting, (b) by or at the direction of the Board of Trustees or (c) if the Board of Trustees has determined that trustees shall be elected at the special meeting.

The postponement or adjournment of an annual or special meeting to a later date or time shall not commence any new time periods for the giving of notice as described above. Our bylaws contain detailed requirements for the contents of shareholder notices of trustee nominations and new business proposals.

Shareholder Liability and Indemnification. Under Maryland law, you will not be personally liable for any obligation of ours solely because you are a shareholder. Under our declaration of trust, our shareholders are not liable for our debts or obligations by reason of being a shareholder and will not be subject to any personal liability, in tort, contract or otherwise, to any person in connection with our property or affairs by reason of being a shareholder. Under our bylaws, our shareholders shall have similar indemnification and expense advancement rights as our trustees and officers.

In some jurisdictions other than Maryland, however, with respect to tort claims, contractual claims where shareholder liability is not negated by the express terms of the contract, claims for taxes and certain statutory liabilities, our shareholders may be personally liable to the extent that those claims are not satisfied by us. In addition, common law theories of "piercing the corporate veil" may be used to impose liability on shareholders in certain instances.

Limitation of Liability of Trustees and Officers. Our declaration of trust, to the maximum extent permitted under Maryland law in effect from time to time with respect to liability of trustees and officers of a REIT, provides that no trustee or officer of ours shall be liable to us or to any shareholder for money damages. The Maryland General Corporation Law provides that we may restrict or limit the liability of trustees or officers for money damages except to the extent:

- it is proved that the trustee or officer actually received an improper benefit or profit in money, property or services; or
- a judgment or other final adjudication adverse to the person is entered in a proceeding based on a finding that the person's action, or failure to act, was material to the cause of action adjudicated and was the result of active and deliberate dishonesty.

Our declaration of trust provides that neither amendment nor repeal or any provision of our declaration of trust, nor adoption of any other provision, shall apply to or affect in any respect the applicability of such limitation of liability with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

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Indemnification of Directors and Officers. Our declaration of trust permits us to indemnify and advance expenses to, to the maximum extent permitted by Maryland law in effect from time to time, any individual who is a present or former trustee or officer of ours or to any individual who, while a trustee of ours, serves or has served as a director, officer, partner, trustee, employee or agent of another REIT, corporation partnership, joint venture, trust, employee benefit plan or any other enterprise, in connection with any claim or liability to which such person may become subject or which such person may incur by reason of such status.

Our bylaws require us to indemnify: (a) any trustee, officer or former trustee or officer, including any individual who, while a trustee or officer at our express request, serves or served for another REIT, corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, shareholder, manager, member, partner or trustee of such entity, who has been successful, on the merits or otherwise, in the defense of a proceeding to which he or she was made a party by reason of service in such capacity, against reasonable expenses incurred by him or her in connection with the proceeding; and (b) any trustee or officer or any former trustee or officer against any claim or liability to which he or she may become subject by reason of such status unless it is established that: (i) his or her act or omission was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberative dishonesty; (ii) he or she actually received an improper personal benefit in money, property or services; or (iii) in the case of a criminal proceeding, he or she had reasonable cause to believe that his or her act or omission was unlawful. In addition, our bylaws require us, without requiring a preliminary determination of the ultimate entitlement to indemnification, to pay or reimburse expenses incurred by a trustee, officer or former trustee or officer made a party to a proceeding by reason of such status, provided that we have received from any such trustee or officer an affirmation and written undertaking as required by our bylaws. Our bylaws provide that neither amendment nor repeal or any provision of our bylaws, nor adoption of any other provision, shall apply to or affect in any respect the applicability of such indemnification and expense advancement rights with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

MATERIAL FEDERAL INCOME TAX CONSIDERATIONS

The following sections summarize the material federal income tax issues that you may consider relevant relating to our taxation as a REIT under the Code, and the ownership and disposition of our common, preferred, and depositary shares. If we offer one or more additional series of common shares or preferred shares, debt securities, depositary shares, warrants to purchase debt or equity securities, or rights to purchase our common shares, the prospectus supplement would include information about certain additional material U.S. federal income tax considerations to holders of any of the offered securities.

Because this section is a summary, it does not address all of the tax issues that may be important to you. For example, this discussion addresses only shares held as capital assets. In addition, this section does not address the tax issues that may be important to certain types of shareholders that are subject to special treatment under the federal income tax laws, such as financial institutions, brokers, dealers in securities and commodities, insurance companies, former U.S. citizens or long-term residents, regulated investment companies, real estate investment trusts, tax-exempt organizations (except to the extent discussed in “— Taxation of Tax-Exempt U.S. Shareholders” below), persons subject to the alternative minimum tax, persons that are, or that hold their shares through, partnerships or other pass-through entities, U.S. shareholders whose functional currency is not the U.S. dollar, persons that hold shares as part of a straddle, hedge, conversion, synthetic security or constructive sale transaction for U.S. federal income tax purposes, or non-U.S. individuals and foreign corporations (except to the extent discussed in “— Taxation of Non-U.S. Shareholders” below). This summary does not address any aspect of state, local or foreign taxation or any U.S. federal tax other than the income tax and, only to the extent specifically provided herein, certain excise taxes potentially applicable to REITs.

This summary is based upon the provisions of the Code, the regulations of the U.S. Department of Treasury (“Treasury”) promulgated thereunder and judicial and administrative rulings now in effect, all of which are subject to change or differing interpretations, possibly with retroactive effect.

We urge you to consult your own tax advisor regarding the specific federal, state, local, foreign and other tax consequences to you of purchasing, owning and disposing of our securities, our election to be taxed as a REIT and the effect of potential changes in applicable tax laws.

Taxation of the Company

We elected to be taxed as a REIT under the federal income tax laws when we filed our 1962 tax return. We have operated in a manner intended to qualify as a REIT and we intend to continue to operate in that manner. This section discusses the laws governing the federal income tax treatment of a REIT and its shareholders. These laws are highly technical and complex.

In the opinion of our tax counsel, Pillsbury Winthrop Shaw Pittman LLP, (i) we qualified as a REIT under Sections 856 through 859 of the Code with respect to our taxable years ended through December 31, 2008; and (ii) we are organized in conformity with the requirements for qualification as a REIT under the Code and our current method of operation and ownership will enable us to meet the requirements for qualification and taxation as a REIT for the current taxable year and for future taxable years, provided that we have operated and continue to operate in accordance with various assumptions and factual representations made by us concerning our business, properties and operations. We may not, however, have met or continue to meet such requirements. You should be aware that opinions of counsel are not binding on the Internal Revenue Service (“IRS”) or any court. Our qualification as a REIT depends on our ability to meet, on a continuing basis, certain qualification tests set forth in the federal tax laws. Those qualification tests involve the percentage of income that we earn from specified sources, the percentage of our assets that fall within certain categories, the diversity of the ownership of our shares, and the percentage of our earnings that we distribute. We describe the REIT qualification tests in more detail below. Pillsbury Winthrop Shaw Pittman LLP will not monitor our compliance with the requirements for REIT qualification on an ongoing basis. Accordingly, our actual operating results may not satisfy the

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qualification tests. For a discussion of the tax treatment of us and our shareholders if we fail to qualify as a REIT, see “— Requirements for REIT Qualification — Failure to Qualify.”

As a REIT, we generally will not be subject to federal income tax on the taxable income that we distribute to our shareholders. The benefit of that tax treatment is that it avoids the “double taxation” (i.e., at both the corporate and shareholder levels) that generally results from owning shares in a subchapter C corporation. However, we will be subject to federal tax in the following circumstances:

- we will pay federal income tax on taxable income (including net capital gain) that we do not distribute to our shareholders during, or within a specified time period after, the calendar year in which the income is earned;
- we may be subject to the “alternative minimum tax” on any items of tax preference that we do not distribute or allocate to our shareholders;
- we will pay income tax at the highest corporate rate on (i) net income from the sale or other disposition of property acquired through foreclosure that we hold primarily for sale to customers in the ordinary course of business and (ii) other non-qualifying income from foreclosure property;
- we will pay a 100% tax on net income from certain sales or other dispositions of property (other than foreclosure property) that we hold primarily for sale to customers in the ordinary course of business (“prohibited transactions”);
- if we fail to satisfy the 75% gross income test or the 95% gross income test (as described below under “— Requirements for REIT Qualification — Income Tests”), but nonetheless continue to qualify as a REIT because we meet certain other requirements, we will pay a 100% tax on (i) the gross income attributable to the greater of the amount by which we fail, respectively, the 75% or 95% gross income test, multiplied, in either case, by (ii) a fraction intended to reflect our profitability;
- if we fail, in more than a de minimis fashion, to satisfy one or more of the asset tests for any quarter of a taxable year, but nonetheless continue to qualify as a REIT because we qualify under certain relief provisions, we may be required to pay a tax of the greater of \$50,000 or a tax computed at the highest corporate rate on the amount of net income generated by the assets causing the failure from the date of failure until the assets are disposed of or we otherwise return to compliance with the asset test;
- if we fail to satisfy one or more of the requirements for REIT qualification (other than the income tests or the asset tests), we nevertheless may avoid termination of our REIT election in such year if the failure is due to reasonable cause and not due to willful neglect, but we would also be required to pay a penalty of \$50,000 for each failure to satisfy the REIT qualification requirements;
- if we fail to distribute during a calendar year at least the sum of (i) 85% of our REIT ordinary income for such year, (ii) 95% of our REIT capital gain net income for such year, and (iii) any undistributed taxable income from prior periods, we will pay a 4% excise tax on the excess of such required distribution over the amount we actually distributed;
- we may be required to pay monetary penalties to the IRS in certain circumstances, including if we fail to meet record-keeping requirements intended to monitor our compliance with the rules relating to the composition of a REIT’s shareholders;
- we may elect to retain and pay income tax on our net long-term capital gain; or
- if we acquire any asset from a C corporation (i.e., a corporation generally subject to full corporate-level tax) in a merger or other transaction in which we acquire a “carryover” basis in the asset (i.e., basis determined by reference to the C corporation’s basis in the asset (or another asset)), and we recognize

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gain on the sale or disposition of such asset during the 10-year period after we acquire such asset, we will pay tax at the highest regular corporate rate applicable on the lesser of (i) the amount of gain that we recognize at the time of the sale or disposition and (ii) the amount of gain that we would have recognized if we had sold the asset at the time we acquired the asset.

Requirements for REIT Qualification

To qualify as a REIT, we must meet the following requirements:

1. we are managed by one or more trustees or directors;
2. our beneficial ownership is evidenced by transferable shares, or by transferable certificates of beneficial interest;
3. we would be taxable as a domestic corporation, but for Sections 856 through 860 of the Code;
4. we are neither a financial institution nor an insurance company subject to certain provisions of the Code;
5. at least 100 persons are beneficial owners of our shares or ownership certificates;
6. not more than 50% in value of our outstanding shares or ownership certificates is owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities) during the last half of any taxable year (the “5/50 Rule”);
7. we elect to be a REIT (or have made such election for a previous taxable year) and satisfy all relevant filing and other administrative requirements established by the IRS that must be met to elect and maintain REIT status;
8. we use a calendar year for federal income tax purposes and comply with the record keeping requirements of the Code and the related regulations of the Treasury; and
9. we meet certain other qualification tests, described below, regarding the nature of our income and assets.

We must meet requirements 1 through 4 during our entire taxable year and must meet requirement 5 during at least 335 days of a taxable year of 12 months, or during a proportionate part of a taxable year of less than 12 months. If we comply with all the requirements for ascertaining the ownership of our outstanding shares in a taxable year and have no reason to know that we violated the 5/50 Rule, we will be deemed to have satisfied the 5/50 Rule for such taxable year. For purposes of determining share ownership under the 5/50 Rule, an “individual” generally includes a supplemental unemployment compensation benefits plan, a private foundation, or a portion of a trust permanently set aside or used exclusively for charitable purposes. An “individual,” however, generally does not include a trust that is a qualified employee pension or profit sharing trust under Code Section 401(a), and beneficiaries of such a trust will be treated as holding our shares in proportion to their actuarial interests in the trust for purposes of the 5/50 Rule.

We believe we have issued sufficient shares with sufficient diversity of ownership to satisfy requirements 5 and 6 set forth above. In addition, our declaration of trust restricts the ownership and transfer of our shares so that we should continue to satisfy requirements 5 and 6. The provisions of our declaration of trust restricting the ownership and transfer of our shares are described in “Description of Shares of Beneficial Ownership—Restrictions on Ownership and Transfer.”

We currently have several direct corporate subsidiaries and may have additional corporate subsidiaries in the future. A corporation that is a “qualified REIT subsidiary” is not treated as a corporation separate from its parent REIT. All assets, liabilities, and items of income, deduction, and credit of a qualified REIT subsidiary are

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treated as assets, liabilities, and items of income, deduction, and credit of the REIT. A qualified REIT subsidiary is a corporation, all of the capital stock of which is owned by the parent REIT, unless we and the subsidiary have jointly elected to have it treated as a “taxable REIT subsidiary,” in which case it is treated separately from us and will be subject to federal corporate income taxation. Thus, in applying the requirements described herein, any qualified REIT subsidiary of ours will be ignored, and all assets, liabilities, and items of income, deduction, and credit of such subsidiary will be treated as our assets, liabilities, and items of income, deduction, and credit. We believe our direct corporate subsidiaries are qualified REIT subsidiaries, except for those that are taxable REIT subsidiaries. Accordingly, our qualified REIT subsidiaries are not subject to federal corporate income taxation, though they may be subject to state and local taxation.

A REIT is treated as owning its proportionate share of the assets of any partnership in which it is a partner and as earning its allocable share of the gross income of the partnership for purposes of the applicable REIT qualification tests. Thus, our proportionate share of the assets and items of income of any partnership (or limited liability company treated as a partnership) in which we have acquired or will acquire an interest, directly or indirectly, are treated as our assets and gross income for purposes of applying the various REIT qualification requirements. Our proportionate share is generally determined, for these purposes, based on our percentage interest in partnership equity capital.

Income Tests. We must satisfy two gross income tests annually to maintain our qualification as a REIT:

- At least 75% of our gross income (excluding gross income from prohibited transactions, certain real estate liability hedges and, after July 30, 2008, certain foreign currency hedges entered into and certain recognized real estate foreign exchange gains) for each taxable year must consist of defined types of income that we derive, directly or indirectly, from investments relating to real property or mortgages on real property or qualified temporary investment income (the “75% gross income test”). Qualifying income for purposes of the 75% gross income test includes “rents from real property,” interest on debt secured by mortgages on real property or on interests in real property, gain from the sale of real estate assets, and dividends or other distributions on and gain from the sale of shares in other REITs; and
- At least 95% of our gross income (excluding gross income from prohibited transactions, certain real estate liability hedges and, after July 30, 2008, certain foreign currency hedges entered into and certain recognized passive foreign exchange gains) for each taxable year must consist of income that is qualifying income for purposes of the 75% gross income test, dividends, other types of interest, gain from the sale or disposition of stock or securities, or any combination of the foregoing (the “95% gross income test”).

The following paragraphs discuss the specific application of these tests to us.

Rental Income. Our primary source of income derives from leasing properties. There are various limitations on whether rent that we receive from real property that we own and lease to tenants will qualify as “rents from real property” (which is qualifying income for purposes of the 75% and 95% gross income tests):

- Although, generally, rent may be based on a fixed percentage or percentages of receipts or sales, if the rent is based, in whole or in part, on the income or profits of any person, the rent will not qualify as “rents from real property.” We have not entered into any lease based in whole or part on the net income of any person and do not anticipate entering into such arrangements unless, in either instance, we determine or have determined in our discretion that such arrangements will not jeopardize our status as a REIT;
- Except in certain limited circumstances involving taxable REIT subsidiaries, if we or someone who owns 10% or more of our shares owns 10% or more of a tenant from whom we receive rent, the tenant is deemed a “related party tenant,” and the rent paid by the related party tenant will not qualify as “rents from real property.” Our ownership and the ownership of a tenant is determined based on direct,

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indirect and constructive ownership. The constructive ownership rules generally provide that if 10% or more in value of our shares are owned, directly or indirectly, by or for any person, we are considered as owning the shares owned, directly or indirectly, by or for such person. The applicable attribution rules, however, are highly complex and difficult to apply, and we may inadvertently enter into leases with tenants who, through application of such rules, will constitute “related party tenants.” In such event, rent paid by the related party tenant will not qualify as “rents from real property,” which may jeopardize our status as a REIT. We will use our best efforts not to rent any property to a related party tenant (taking into account the applicable constructive ownership rules), unless we determine in our discretion that the rent received from such related party tenant will not jeopardize our status as a REIT. We believe that we have not leased property to any related party tenant, except where we have determined that the rent received from such related party tenant is not material and will not jeopardize our status as a REIT;

- In the case of certain rent from a taxable REIT subsidiary which would, but for this exception, be considered rent from a related party tenant, the space leased to the taxable REIT subsidiary must be part of a property at least 90% of which is rented to persons other than taxable REIT subsidiaries and related party tenants, and the amounts of rent paid to us by the taxable REIT subsidiary must be substantially comparable to the rents paid by such other persons for comparable space. All space currently leased to taxable REIT subsidiaries meets these conditions, and we intend to meet them in the future, unless we determine in our discretion that the rent received from a taxable REIT subsidiary will not jeopardize our status as a REIT;
- If the rent attributable to any personal property leased in connection with a lease of property is more than 15% of the total rent received under the lease, all of the rent attributable to the personal property will fail to qualify as “rents from real property.” In general, we have not leased a significant amount of personal property under our current leases. If any incidental personal property has been leased, or we lease personal property in connection with a future lease, we believe that rent under each lease from the personal property has been or will be less than 15% of total rent from that lease or that the amount of rent attributable to the personal property will not jeopardize our status as a REIT; and
- In general, if we furnish or render services to our tenants, other than through a taxable REIT subsidiary or an “independent contractor” who is adequately compensated and from whom we do not derive revenue, the income received from the tenants may not be deemed “rents from real property.” We may provide services directly, if the services are “usually or customarily rendered” in connection with the rental of space for occupancy only and are not otherwise considered to be provided for the tenant’s convenience. In addition, we may render directly a de minimis amount of “non-customary” services to the tenants of a property without disqualifying the income as “rents from real property,” as long as our income from the services does not exceed 1% of our income from the related property. We have not provided services to leased properties that have caused rents to be disqualified as rents from real property, and in the future, we intend that any services provided will not cause rents to be disqualified as rents from real property.

Based on, and subject to, the foregoing, we believe that rent from our leases should generally qualify as “rents from real property” for purposes of the 75% and 95% gross income tests, except in amounts that should not jeopardize our status as a REIT. As described above, however, the IRS may assert successfully a contrary position and, therefore, prevent us from qualifying as a REIT.

On an ongoing basis, we will use our best efforts not to:

- charge rent for any property that is based in whole or in part on the income or profits of any person (except by reason of being based on a percentage of receipts or sales, as described above);

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- rent any property to a related party tenant (taking into account the applicable constructive ownership rules and the exception for taxable REIT subsidiaries), unless we determine in our discretion that the rent received from such related party tenant is not material and will not jeopardize our status as a REIT;
- derive rental income attributable to personal property (other than personal property leased in connection with the lease of real property, the amount of which is less than 15% of the total rent received under the lease); and
- perform services considered to be provided for the convenience of the tenant that generate rents exceeding 1% of all amounts received or accrued during the taxable year with respect to such property, other than through an independent contractor from whom we derive no revenue, through a taxable REIT subsidiary, or if the provision of such services will not jeopardize our status as a REIT.

Because the Code provisions applicable to REITs are complex, however, we may fail to meet one or more of the foregoing.

Tax on Income From Property Acquired in Foreclosure. We will be subject to tax at the maximum corporate rate on any income from foreclosure property (other than income that would be qualifying income for purposes of the 75% gross income test), less expenses directly connected to the production of such income. “Foreclosure property” is any real property (including interests in real property) and any personal property incident to such real property:

- that is acquired by a REIT at a foreclosure sale, or having otherwise become the owner or in possession of the property by agreement or process of law, after a default (or imminent default) on a lease of such property or on a debt owed to the REIT secured by the property;
- for which the related loan was acquired by the REIT at a time when default was not imminent or anticipated; and
- for which the REIT makes a proper election to treat the property as foreclosure property.

A REIT will not be considered to have foreclosed on a property where it takes control of the property as a mortgagee-in-possession and cannot receive any profit or sustain any loss except as a creditor of the mortgagor. Generally, property acquired as described above ceases to be foreclosure property on the earlier of:

- the last day of the third taxable year following the taxable year in which the REIT acquired the property (or longer if an extension is granted by the Secretary of the Treasury);
- the first day on which a lease is entered into with respect to such property that, by its terms, will give rise to income that does not qualify under the 75% gross income test or any amount is received or accrued, directly or indirectly, pursuant to a lease entered into on or after such day that will give rise to income that does not qualify under the 75% gross income test;
- the first day on which any construction takes place on such property (other than completion of a building, or any other improvement, where more than 10% of the construction of such building or other improvement was completed before default became imminent); or
- the first day that is more than 90 days after the day on which such property was acquired by the REIT and the property is used in a trade or business that is conducted by the REIT (other than through an independent contractor from whom the REIT itself does not derive or receive any income).

Tax on Prohibited Transactions. A REIT will incur a 100% tax on net income derived from any “prohibited transaction.” A “prohibited transaction” generally is a sale or other disposition of property (other than foreclosure property) that the REIT holds primarily for sale to customers in the ordinary course of a trade or

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business. With respect to prohibited transactions occurring after July 30, 2008, any foreign currency gain (as defined in Section 988(b)(1) of the Code) and any foreign currency loss (as defined in Section 988(b)(2) of the Code) will be taken into account in determining the amount of income subject to the 100% penalty tax. The prohibited transaction rules do not apply to property held by a taxable REIT subsidiary of a REIT. We believe that none of our assets (other than certain assets held through our taxable REIT subsidiaries) are held for sale to customers and that a sale of any such asset would not be in the ordinary course of our business. Whether a REIT holds an asset “primarily for sale to customers in the ordinary course of a trade or business” depends, however, on the facts and circumstances in effect from time to time, including those related to a particular asset.

The Code provides a safe harbor that, if met, allows us to avoid being treated as engaged in a prohibited transaction. In order to meet the safe harbor, (i) we must have held the property for at least 2 years (and, in the case of property which consists of land or improvements not acquired through foreclosure, we must have held the property for 2 years for the production of rental income), (ii) we must not have made aggregate expenditures includible in the basis of the property during the 2-year period preceding the date of sale that exceed 30% of the net selling price of the property, and (iii) during the taxable year the property is disposed of, we must not have made more than 7 property sales or, alternatively, the aggregate adjusted basis or fair market value of all of the properties sold by us during the taxable year must not exceed 10% of the aggregate adjusted basis or 10% of the fair market value, respectively, of all of our assets as of the beginning of the taxable year. If the 7 sale limitation in (iii) above is not satisfied, substantially all of the marketing and development expenditures with respect to the property must be made through an independent contractor from whom we do not derive or receive any income. For sales on or prior to July 30, 2008, the 2-year periods referenced in (i) and (ii) above were 4 years, and the 10% fair market value test described in the alternative in (iii) above did not apply. We believe we have complied with the terms of the safe-harbor provision and we will attempt to comply with the terms of the safe-harbor in the future. We may fail to comply with the safe-harbor provision or may own property that could be characterized as property held “primarily for sale to customers in the ordinary course of a trade or business.”

Tax and Deduction Limits on Certain Transactions with Taxable REIT Subsidiaries. A REIT will incur a 100% tax on certain transactions between a REIT and a taxable REIT subsidiary to the extent the transactions are not on an arms-length basis. In addition, under certain circumstances the interest paid by a taxable REIT subsidiary to the REIT may not be deductible by the taxable REIT subsidiary. We believe that none of the transactions we have had with our taxable REIT subsidiaries will give rise to the 100% tax and that none of our taxable REIT subsidiaries will be subject to the interest deduction limits.

Hedging Transactions. Except to the extent provided by Treasury regulations, any income we derive from a hedging transaction (which may include entering into interest rate swaps, caps, and floors, options to purchase these items, and futures and forward contracts) which is clearly identified as such as specified in the Code, including gain from the sale or disposition of such a transaction, will not constitute gross income for purposes of either the 75% or 95% gross income test, and therefore will be exempt from these tests, but only to the extent that the transaction hedges indebtedness incurred or to be incurred by us to acquire or carry real estate assets or is entered into primarily to manage the risk of foreign currency fluctuations with respect to qualifying income under the 75% or 95% gross income test. Real estate liability hedging transactions entered into on or before July 30, 2008, however, will likely generate nonqualifying income for purposes of the 75% gross income test, and foreign currency hedges entered into on or before July 30, 2008, will likely generate nonqualifying income for purposes of both the 75% and 95% gross income tests. Moreover, income from any hedging transaction not described above will likely continue to be treated as nonqualifying for both the 75% and 95% gross income test.

Relief from Consequences of Failing to Meet Income Tests. If we fail to satisfy one or both of the 75% and 95% gross income tests for any taxable year, we nevertheless may qualify as a REIT for such year if we qualify for relief under certain provisions of the Code. Those relief provisions generally will be available if our failure to meet such tests is due to reasonable cause and not due to willful neglect, and we file a schedule of the sources of our income in accordance with regulations prescribed by the Treasury. We may not qualify for the relief provisions in all circumstances. In addition, as discussed above in “—Taxation of the Company,” even if

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the relief provisions apply, we would incur a 100% tax on gross income to the extent we fail the 75% or 95% gross income test (whichever amount is greater), multiplied by a fraction intended to reflect our profitability.

Asset Tests. To maintain our qualification as a REIT, we also must satisfy the following asset tests at the close of each quarter of each taxable year:

- At least 75% of the value of our total assets must consist of cash or cash items (including certain receivables), U.S. government securities, “real estate assets,” or qualifying temporary investments (the “75% asset test”).
 - “Real estate assets” include interests in real property, interests in mortgages on real property and stock in other REITs. We believe that the properties qualify as real estate assets.
 - “Interests in real property” include an interest in mortgage loans or land and improvements thereon, such as buildings or other inherently permanent structures (including items that are structural components of such buildings or structures), a leasehold of real property, and an option to acquire real property (or a leasehold of real property).
 - Qualifying temporary investments are investments in stock or debt instruments during the one-year period following our receipt of new capital that we raise through equity or long-term (at least five-year) debt offerings.
- For investments not included in the 75% asset test, (A) the value of our interest in any one issuer’s securities, which does not include our equity ownership of other REITs, any taxable REIT subsidiary or qualified REIT subsidiary, may not exceed 5% of the value of our total assets (the “5% asset test”), (B) we may not own more than 10% of the voting power or value of any one issuer’s outstanding securities, which does not include our equity ownership in other REITs, any qualified REIT subsidiary, or any taxable REIT subsidiary (the “10% asset test”), (C) the value of our securities in one or more taxable REIT subsidiaries may not exceed 25% of the value of our total assets (20% for taxable years ending on or before December 31, 2008), and (D) no more than 25% of the value of our total assets may consist of the securities of taxable REIT subsidiaries and our assets that are not qualifying assets for purposes of the 75% asset test. For purposes of the 10% asset test that relates to value, the following are not treated as securities: (i) loans to individuals and estates, (ii) securities issued by REITs, (iii) accrued obligations to pay rent; (iv) certain debt meeting the definition of “straight debt” if neither we nor a taxable REIT subsidiary that we control hold more than 1% of the issuer’s securities that do not qualify as “straight debt,” and (v) debt issued by a partnership if the partnership meets the 75% gross income test with respect to its own gross income.

We intend to select future investments so as to comply with the asset tests.

If we fail to satisfy the asset tests at the end of a calendar quarter, we would not lose our REIT status if (i) we satisfied the asset tests at the close of the preceding calendar quarter and (ii) the discrepancy between the value of our assets and the asset test requirements arose from changes in the market values of our assets and was not wholly or partly caused by the acquisition of one or more non-qualifying assets. If we did not satisfy the condition described in clause (ii) of the preceding sentence, we still could avoid disqualification as a REIT by eliminating any discrepancy within 30 days after the close of the calendar quarter in which the discrepancy arose.

Relief from Consequences of Failing to Meet Asset Tests. If we fail to satisfy one or more of the asset tests for any quarter of a taxable year, we nevertheless may qualify as a REIT for such year if we qualify for relief under certain provisions of the Code. Those relief provisions are available for failures of the 5% asset test and the 10% asset test if (i) the failure is due to the ownership of assets that do not exceed the lesser of 1% of our total assets or \$10 million, and (ii) the failure is corrected or we otherwise return to compliance with the applicable asset test within 6 months following the quarter in which it was discovered. In addition, should we fail

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to satisfy any of the asset tests other than failures addressed in the previous sentence, we may nevertheless qualify as a REIT for such year if (i) the failure is due to reasonable cause and not due to willful neglect, (ii) we file a schedule with a description of each asset causing the failure in accordance with regulations prescribed by the Treasury, (iii) the failure is corrected or we otherwise return to compliance with the asset tests within 6 months following the quarter in which the failure was discovered, and (iv) we pay a tax consisting of the greater of \$50,000 or a tax computed at the highest corporate rate on the amount of net income generated by the assets causing the failure from the date of failure until the assets are disposed of or we otherwise return to compliance with the asset tests. We may not qualify for the relief provisions in all circumstances.

Distribution Requirements. Each taxable year, we must distribute dividends (other than capital gain dividends and deemed distributions of retained capital gain) to our shareholders in an aggregate amount at least equal to (1) the sum of 90% of (A) our “REIT taxable income” (computed without regard to the dividends paid deduction and our net capital gain) and (B) our net income (after tax), if any, from foreclosure property, minus (2) certain items of non-cash income.

We generally must pay such distributions in the taxable year to which they relate, or in the following taxable year if we (i) declare a dividend in one of the last three months of the calendar year to which the dividend relates which is payable to shareholders of record as determined in one of such months, and pay the distribution during January of the following taxable year, or (ii) declare the distribution before we timely file our federal income tax return for such year and pay the distribution on or before the first regular dividend payment date after such declaration.

We will pay federal income tax at regular corporate rates on taxable income (including net capital gain) that we do not distribute to shareholders. Furthermore, we will incur a 4% nondeductible excise tax if we fail to distribute during a calendar year (or, in the case of distributions with declaration and record dates falling in the last three months of the calendar year, by the end of January following such calendar year) at least the sum of (1) 85% of our REIT ordinary income for such year, (2) 95% of our REIT capital gain income for such year, and (3) any undistributed taxable income from prior periods. The excise tax is on the excess of such required distribution over the amounts we actually distributed. We may elect to retain and pay income tax on the net long-term capital gain we receive in a taxable year. See “— Taxation of Taxable U.S. Shareholders.” For purposes of the 4% excise tax, we will be treated as having distributed any such retained amount. We have made, and we intend to continue to make, timely distributions sufficient to satisfy the annual distribution requirements.

It is possible that, from time to time, we may experience timing differences between (1) the actual receipt of income and actual payment of deductible expenses and (2) the inclusion of that income and deduction of such expenses in arriving at our REIT taxable income. For example, we may not deduct recognized capital losses from our REIT taxable income. Further, it is possible that, from time to time, we may be allocated a share of partnership net capital gain attributable to the sale of depreciated property that exceeds our allocable share of cash attributable to that sale. As a result of the foregoing, we may have less cash than is necessary to distribute all of our taxable income and thereby avoid corporate income tax and the excise tax imposed on certain undistributed income. In such a situation, we may need to borrow funds or issue preferred shares or additional common shares to raise the cash necessary to make required distributions.

Under certain circumstances, we may be able to correct a failure to meet the distribution requirement for a year by paying deficiency dividends to our shareholders in a later year. We may include such deficiency dividends in our deduction for dividends paid for the earlier year. Although we may be able to avoid income tax on amounts distributed as deficiency dividends, we will be required to pay interest to the IRS based upon the amount of any deduction we take for deficiency dividends.

Record Keeping Requirements. We must maintain certain records to qualify as a REIT. In addition, to avoid a monetary penalty, we must request on an annual basis certain information from our shareholders designed to disclose the actual ownership of our outstanding shares. We have complied, and we intend to continue to comply, with such requirements.

Relief from Other Failures of the REIT Qualification Provisions. If we fail to satisfy one or more of the requirements for REIT qualification (other than the income tests or the asset tests), we nevertheless may avoid termination of our REIT election in such year if the failure is due to reasonable cause and not due to willful neglect and we pay a penalty of \$50,000 for each failure to satisfy the REIT qualification requirements. We may not qualify for this relief provision in all circumstances.

Failure to Qualify. If we fail to qualify as a REIT in any taxable year, and no relief provision applied, we would be subject to federal income tax (including any applicable alternative minimum tax) on our taxable income at regular corporate rates. In calculating our taxable income in a year in which we fail to qualify as a REIT, we would not be able to deduct amounts paid out to shareholders and we would not be required to distribute any amounts to shareholders in such year. In such event, to the extent of our current and accumulated earnings and profits, all distributions to shareholders would be taxable as ordinary income. Any such dividends should, however, be “qualified dividend income,” which is taxable at long-term capital gain rates for individual shareholders who satisfy certain holding period requirements for tax years through 2010. Different rules may apply for years beginning after 2010. See “— Taxation of Taxable U.S. Shareholders — Current Tax Rates.” Furthermore, subject to certain limitations of the Code, corporate shareholders might be eligible for the dividends received deduction. Unless we qualified for relief granted by the IRS under specific statutory provisions, we also would be disqualified from taxation as a REIT for the four taxable years following the year during which we ceased to qualify as a REIT. We cannot predict whether in all circumstances we would qualify for such statutory relief.

Taxation of Taxable U.S. Shareholders

As used herein, the term “taxable U.S. shareholder” means a taxable beneficial owner of our common or preferred shares that for U.S. federal income tax purposes is

- a citizen or resident of the United States;
- a corporation (including an entity treated as a corporation for federal income tax purposes) created or organized in or under the laws of the United States, any of its states or the District of Columbia;
- an estate whose income is subject to U.S. federal income taxation regardless of its source; or
- a trust if (A) a U.S. court is able to exercise primary supervision over the administration of such trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (B) it has a valid election in effect to be treated as a U.S. person.

If a partnership, including an entity or arrangement that is treated as a partnership for U.S. federal income tax purposes, is a beneficial owner of our shares, the treatment of a partner in the partnership will generally depend on the status of the partner and the activities of the partnership.

For U.S. federal income tax purposes, holders of depositary share receipts will be treated as if they held the equivalent fraction of the underlying preferred shares. Accordingly, the discussion below with respect to the consequences of holding our preferred shares applies equally to holders of our depositary receipts.

Dividends and Other Taxable U.S. Shareholder Distributions. As long as we qualify as a REIT, a taxable U.S. shareholder must take into account distributions on our common or preferred shares out of our current or accumulated earnings and profits (and that we do not designate as capital gain dividends or retained long-term capital gain) as ordinary income. Such distributions will not qualify for the dividends received deduction generally available to corporations. In addition, dividends paid to taxable U.S. shareholders generally will not qualify for the 15% tax rate (applicable to tax years through 2010) for “qualified dividend income.”

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In determining the extent to which a distribution constitutes a dividend for federal income tax purposes, our earnings and profits will be allocated first to distributions with respect to our preferred shares and then to distributions with respect to our common shares. If, for any taxable year, we elect to designate as capital gain dividends any portion of the distributions paid for the year to our shareholders, the portion of the amount so designated (not in excess of our net capital gain for the year) that will be allocable to the holders of each class or series of preferred shares will be the amount so designated, multiplied by a fraction, the numerator of which will be the total dividends (within the meaning of the Code) paid to the holders of such class or series of preferred shares for the year and the denominator of which will be the total dividends paid to the holders of all classes of our shares for the year. The remainder of the designated capital gain dividends will be allocable to holders of our common shares.

A taxable U.S. shareholder will recognize distributions that we designate as capital gain dividends as long-term capital gain (to the extent they do not exceed our actual net capital gain for the taxable year) without regard to the period for which the taxable U.S. shareholder has held its shares. See “—Capital Gains and Losses” below. Subject to certain limitations, we will designate whether our capital gain dividends are taxable at the usual capital gains rate or at the higher rate applicable to depreciation recapture. A corporate taxable U.S. shareholder, however, may be required to treat up to 20% of certain capital gain dividends as ordinary income.

We may elect to retain and pay income tax on the net long-term capital gain that we receive in a taxable year. In that case, a taxable U.S. shareholder would be taxed on its proportionate share of our undistributed long-term capital gain. The taxable U.S. shareholder would receive a credit or refund for its proportionate share of the tax we paid. The taxable U.S. shareholder would increase the basis in its shares by the amount of its proportionate share of our undistributed long-term capital gain, minus its share of the tax we paid.

A taxable U.S. shareholder will not incur tax on a distribution to the extent it exceeds our current and accumulated earnings and profits if such distribution does not exceed the adjusted basis of the taxable U.S. shareholder’s common or preferred shares. Instead, such distribution in excess of earnings and profits will reduce the adjusted basis of such common or preferred shares. To the extent a distribution exceeds both our current and accumulated earnings and profits and the taxable U.S. shareholder’s adjusted basis in its common or preferred shares, the taxable U.S. shareholder will recognize long-term capital gain (or short-term capital gain if the shares have been held for one year or less), assuming the shares are a capital asset in the hands of the taxable U.S. shareholder. In addition, if we declare a distribution in October, November, or December of any year that is payable to a taxable U.S. shareholder of record on a specified date in any such month, such distribution shall be treated as both paid by us and received by the taxable U.S. shareholder on December 31 of such year, provided that we actually pay the distribution during January of the following calendar year. We will notify taxable U.S. shareholders after the close of our taxable year as to the portions of the distributions attributable to that year that constitute ordinary income or capital gain dividends.

Taxation of Taxable U.S. Shareholders on the Disposition of Our Shares. In general, a taxable U.S. shareholder who is not a dealer in securities must treat any gain or loss realized upon a taxable disposition of our common or preferred shares as long-term capital gain or loss if the taxable U.S. shareholder has held the shares for more than one year and otherwise as short-term capital gain or loss. However, a taxable U.S. shareholder must treat any loss upon a sale or exchange of common or preferred shares held by such shareholder for six months or less (after applying certain holding period rules) as a long-term capital loss to the extent of capital gain dividends and other distributions from us that such taxable U.S. shareholder treats as long-term capital gain. All or a portion of any loss a taxable U.S. shareholder realizes upon a taxable disposition of the common or preferred shares may be disallowed if the taxable U.S. shareholder purchases substantially identical shares within the 61-day period beginning 30 days before and ending 30 days after the disposition.

Capital Gains and Losses. A taxpayer generally must hold a capital asset for more than one year for gain or loss derived from its sale or exchange to be treated as long-term capital gain or loss. The highest marginal individual income tax rate on ordinary income significantly exceeds the maximum tax rate on long-term capital

gain applicable to non-corporate taxpayers. The maximum tax rate on long-term capital gain from the sale or exchange of “Section 1250 property” (i.e., depreciable real property) is, to the extent that such gain would have been treated as ordinary income if the property were “Section 1245 property,” higher than the maximum long-term capital gain rate otherwise applicable. With respect to distributions that we designate as capital gain dividends and any retained capital gain that is deemed to be distributed, we may designate (subject to certain limits) whether such a distribution is taxable to our non-corporate shareholders at the lower or higher rate. The characterization of income as capital gain or ordinary income may also affect the deductibility of capital losses. A non-corporate taxpayer may generally deduct capital losses not offset by capital gains against its ordinary income only up to a maximum annual amount of \$3,000. A non-corporate taxpayer may carry forward unused capital losses indefinitely. A corporate taxpayer must pay tax on its net capital gain at ordinary corporate rates. A corporate taxpayer can deduct capital losses only to the extent of capital gains, with unused losses being carried back three years and forward five years.

Redemption of Preferred Shares for Cash. The treatment accorded to any redemption by us for cash (as distinguished from a sale, exchange or other disposition) of preferred shares can only be determined on the basis of particular facts as to each holder at the time of redemption. As stated above, in general a taxable U.S. shareholder of preferred shares will recognize capital gain or loss measured by the difference between the amount received upon the redemption and such holder’s adjusted tax basis in the preferred shares redeemed (provided the preferred shares are held as a capital asset) if such redemption (i) results in a “complete termination” of the holder’s interest in all classes of our shares under Section 302(b)(3) of the Code, (ii) is “substantially disproportionate” with respect to the holder’s interest in our shares under Section 302(b)(2) of the Code (which will not be the case if only preferred shares are redeemed, since they generally do not have voting rights), or (iii) is “not essentially equivalent to a dividend” with respect to the holder of preferred shares under Section 302(b)(1) of the Code. In applying these tests, there must be taken into account not only the preferred shares owned by the taxable U.S. shareholder, but also such holder’s ownership of our common shares and any other options (including share purchase rights) to acquire any of the foregoing. The holder of preferred shares 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 taxable U.S. shareholder of preferred shares owns (actually or constructively) none of our common shares or an insubstantial percentage of our outstanding common shares, then based upon current law, it is probable that the redemption of preferred shares from such a holder would be considered “not essentially equivalent to a dividend.” However, whether a dividend is “not essentially equivalent to a dividend” depends on all of the facts and circumstances, and a taxable U.S. shareholder of preferred shares intending to rely on any of these tests at the time of redemption should consult the holder’s own tax advisor to determine their application to the holder’s 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 preferred shares will be treated as a distribution on the preferred shares. If the redemption is taxed as a dividend, the taxable U.S. shareholder’s adjusted tax basis in the preferred shares will be transferred to any other shares held by the holder. If the holder of preferred shares owns none of our other shares, under certain circumstances, such basis may be transferred to a related person, or it may be lost entirely.

The Treasury is considering other methods for basis recovery, and new regulations addressing this treatment recently were proposed. There can be no assurance, however, that the proposed regulations will be adopted or that they will be adopted in the form currently proposed, and the existing methods for recovering adjusted tax basis continue to apply. We urge you to consult your tax advisor concerning the treatment of a cash redemption of our preferred shares.

Redemption or Conversion of Preferred Shares to Common Shares. Assuming that preferred shares will not be redeemed or converted at a time when there are distributions in arrears, in general, no gain or loss will be recognized for federal income tax purposes upon the redemption or conversion of our preferred shares at the option of the holder solely into common shares. The basis that a taxable U.S. shareholder will have for tax

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purposes in the common shares received will be equal to the adjusted basis the holder had in the preferred shares so redeemed or converted and, provided that the preferred shares were held as a capital asset, the holding period for the common shares received will include the holding period for the preferred shares redeemed or converted. A holder, however, will generally recognize gain or loss on the receipt of cash in lieu of a fractional common share in an amount equal to the difference between the amount of cash received and the holder's adjusted basis in such fractional share.

If a redemption or conversion occurs when there is a dividend arrearage on the preferred shares and the fair market value of the common shares exceeds the issue price of the preferred shares, a portion of the common shares received might be treated as a dividend distribution taxable as ordinary income.

Adjustments to Conversion Price. Under Section 305 of the Code, holders of preferred shares may be deemed to have received a constructive distribution of shares that is taxable as a dividend where the conversion ratio is adjusted to reflect a cash or property distribution with respect to the common shares into which it is convertible. An adjustment to the conversion price made pursuant to a *bona fide*, reasonable adjustment formula that has the effect of preventing dilution of the interest of the holders, however, will generally not be considered to result in a constructive distribution of shares. Certain of the possible adjustments that may be provided in issuances of our preferred shares may not qualify as being pursuant to a *bona fide*, reasonable adjustment formula. In such a case, if a nonqualifying adjustment were made, the holders of preferred shares might be deemed to have received a taxable stock dividend.

Passive Activity and Investment Income Limitations. Distributions from us and gain from the disposition of our common or preferred shares will not be treated as passive activity income and, therefore, taxable U.S. shareholders will not be able to apply any passive activity losses against such income. Dividends from us (to the extent they do not constitute a return of capital or capital gain dividends) and, on an elective basis, capital gain dividends and gain from the disposition of common or preferred shares generally will be treated as investment income for purposes of the investment income limitation.

Current Tax Rates. The maximum tax rate on the long-term capital gains of domestic non-corporate taxpayers is 15% for taxable years beginning on or before December 31, 2010. The tax rate on "qualified dividend income" is the same as the maximum capital gains rate, and is substantially lower than the maximum rate on ordinary income. Because, as a REIT, we are not generally subject to tax on the portion of our REIT taxable income or capital gains distributed to our shareholders, our distributions are not generally eligible for the tax rate on qualified dividend income. As a result, our ordinary REIT distributions are taxed at the higher tax rates applicable to ordinary income. However, with respect to non-corporate taxpayers, the 15% rate does generally apply to:

- a shareholder's long-term capital gain, if any, recognized on the disposition of our shares;
- distributions we designate as long-term capital gain dividends (except to the extent attributable to real estate depreciation, in which case the 25% tax rate applies);
- distributions attributable to dividends we receive from non-REIT corporations (including our taxable REIT subsidiaries); and
- distributions to the extent attributable to income upon which we have paid corporate tax (for example, the tax we would pay if we distributed less than all of our taxable REIT income).

In general, to qualify for the reduced tax rate on qualified dividend income, a shareholder must hold our shares for more than 60 days during the 121-day period beginning on the date that is 60 days before the date on which our shares become ex-dividend.

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Without legislation, for non-corporate taxpayers the maximum tax rate on long-term capital gains will increase to 20% in 2011, and qualified dividend income will no longer be taxed at a preferential rate compared to ordinary income.

Information Reporting and Backup Withholding. Taxable U.S. shareholders that are “exempt recipients” (such as corporations) generally will not be subject to U.S. backup withholding and related information reporting on payments of dividends on, and the proceeds from the disposition of, our common or preferred shares unless, when required, they fail to demonstrate their status as exempt recipients. In general, we will report to our other shareholders and to the IRS the amount of distributions we pay during each calendar year, and the amount of tax we withhold, if any. Under the backup withholding rules, a shareholder (other than an exempt recipient) may be subject to backup withholding (currently at the rate of 28%) with respect to dividends unless such holder provides a taxpayer identification number, certifies as to no loss of exemption from backup withholding, and otherwise complies with the applicable requirements of the backup withholding rules. A shareholder who does not provide us with its correct taxpayer identification number also may be subject to penalties imposed by the IRS. In addition, we may be required to withhold a portion of capital gain distributions to any shareholders who fail to certify their non-foreign status to us. Backup withholding is not an additional tax and may be credited against a shareholder’s regular U.S. federal income tax liability or refunded by the IRS.

Taxation of Tax-Exempt U.S. Shareholders

Tax-exempt entities, including qualified employee pension and profit sharing trusts and individual retirement accounts and annuities (“exempt organizations”), generally are exempt from federal income taxation. However, they are subject to taxation on their unrelated business taxable income (“UBTI”). While many investments in real estate generate UBTI, the IRS has issued a published ruling that dividend distributions from a REIT to an exempt employee pension trust do not constitute UBTI, provided that the exempt employee pension trust does not otherwise use the shares of the REIT in an unrelated trade or business of the pension trust. Based on that ruling, amounts that we distribute to exempt organizations generally should not constitute UBTI. However, if an exempt organization were to finance its acquisition of shares with debt, a portion of the income that they receive from us would constitute UBTI pursuant to the “debt-financed property” rules. Furthermore, social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts and qualified group legal services plans that are exempt from taxation under paragraphs (7), (9), (17), and (20), respectively, of Code Section 501(c) are subject to different UBTI rules, which generally will require them to characterize distributions that they receive from us as UBTI unless the organization is able to properly claim a deduction for amounts set aside or placed in reserve for specific purposes so as to offset the income generated by its investment in our shares. Finally, in certain circumstances, a qualified employee pension or profit sharing trust that owns more than 10% of our shares is required to treat a percentage of the dividends that it receives from us as UBTI (the “UBTI Percentage”). The UBTI Percentage is equal to the gross income we derive from an unrelated trade or business (determined as if we were a pension trust) divided by our total gross income for the year in which we pay the dividends. The UBTI rule applies to a pension trust holding more than 10% of our shares only if:

- the UBTI Percentage is at least 5%;
- we qualify as a REIT by reason of the modification of the 5/50 Rule that allows the beneficiaries of the pension trust to be treated as holding our shares in proportion to their actuarial interests in the pension trust; and
- we are a “pension-held REIT” (i.e., either (1) one pension trust owns more than 25% of the value of our shares or (2) a group of pension trusts individually holding more than 10% of the value of our shares collectively owns more than 50% of the value of our shares).

Tax-exempt entities will be subject to the rules described above, under the heading “— Taxation of Taxable U.S. Shareholders” concerning the inclusion of our designated undistributed net capital gains in the income of

our shareholders. Thus, such entities will, after satisfying filing requirements, be allowed a credit or refund of the tax deemed paid by such entities in respect of such includible gains.

Taxation of Non-U.S. Shareholders

The rules governing U.S. federal income taxation of non-U.S. shareholders (defined below) are complex. This section is only a summary of such rules. We urge non-U.S. shareholders to consult their own tax advisors to determine the impact of federal, state, and local income tax laws on ownership of common or preferred shares, including any reporting requirements. As used herein, the term “non-U.S. shareholder” means any beneficial owner of our shares (other than a partnership or entity that is treated as a partnership for U.S. federal income tax purposes) that is not a taxable U.S. shareholder or exempt organization.

Ordinary Dividends. A non-U.S. shareholder that receives a distribution that is not attributable to gain from our sale or exchange of “U.S. real property interests” (as defined below) and that we do not designate as a capital gain dividend or retained capital gain will recognize ordinary income to the extent that we pay such distribution out of our current or accumulated earnings and profits. A withholding tax equal to 30% of the gross amount of the distribution ordinarily will apply to such distribution unless an applicable tax treaty reduces or eliminates the tax. Under some treaties, however, rates below 30% that are applicable to ordinary income dividends from U.S. corporations may not apply to ordinary income dividends from a REIT or may apply only if the REIT meets certain additional conditions. If a distribution is treated as effectively connected with the non-U.S. shareholder’s conduct of a U.S. trade or business, however, the non-U.S. shareholder generally will be subject to federal income tax on the distribution at graduated rates, in the same manner as taxable U.S. shareholders are taxed with respect to such distributions (and also may be subject to the 30% branch profits tax in the case of a non-U.S. shareholder that is a non-U.S. corporation unless the rate is reduced or eliminated by an applicable income tax treaty). We plan to withhold U.S. income tax at the rate of 30% on the gross amount of any such distribution paid to a non-U.S. shareholder unless (i) a lower treaty rate applies and the non-U.S. shareholder timely provides an IRS Form W-8BEN to us evidencing eligibility for that reduced rate, (ii) the non-U.S. shareholder timely provides an IRS Form W-8ECI to us claiming that the distribution is effectively connected income, or (iii) the non-U.S. shareholder holds shares through a “qualified intermediary” that has elected to perform any necessary withholding itself.

Return of Capital. A non-U.S. shareholder will not incur tax on a distribution to the extent it exceeds our current and accumulated earnings and profits if such distribution does not exceed the adjusted basis of its common or preferred shares. Instead, such distribution in excess of earnings and profits will reduce the adjusted basis of such shares. A non-U.S. shareholder will be subject to tax to the extent a distribution exceeds both our current and accumulated earnings and profits and the adjusted basis of its common or preferred shares, if the non-U.S. shareholder otherwise would be subject to tax on gain from the sale or disposition of its shares, as described below. Because we generally cannot determine at the time we make a distribution whether or not the distribution will exceed our current and accumulated earnings and profits, we normally will withhold tax on the entire amount of any distribution just as we would withhold on an ordinary dividend. However, a non-U.S. shareholder may obtain a refund of amounts that we withhold if we later determine that a distribution in fact exceeded our current and accumulated earnings and profits.

Capital Gain Dividends. Provided that a particular class of our shares is “regularly traded” on an established securities market in the United States, and the non-U.S. shareholder does not own more than 5% of the shares of such class at any time during the one-year period preceding the distribution, then amounts distributed with respect to those shares that are designated as capital gains from our sale or exchange of “U.S. real property interests” (defined below) are treated as ordinary dividends taxable as described above under “— Ordinary Dividends.”

If the foregoing exceptions do not apply, for example because the non-U.S. shareholder owns more than 5% of the relevant class of our shares, the non-U.S. shareholder will incur tax on distributions that are attributable to gain from our sale or exchange of “U.S. real property interests” under the provisions of the Foreign Investment in

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Real Property Tax Act of 1980 (“FIRPTA”). The term “U.S. real property interests” includes certain interests in real property and stock in corporations at least 50% of whose assets consists of interests in real property, but excludes mortgage loans and mortgage-backed securities. Under FIRPTA, a non-U.S. shareholder is taxed on distributions attributable to gain from sales of U.S. real property interests as if such gain were effectively connected with a U.S. business of the non-U.S. shareholder. A non-U.S. shareholder thus would be taxed on such a distribution at the normal capital gain rates applicable to taxable U.S. shareholders (subject to applicable alternative minimum tax and a special alternative minimum tax in the case of a nonresident alien individual). A corporate non-U.S. shareholder not entitled to treaty relief or exemption also may be subject to the 30% branch profits tax on distributions subject to FIRPTA. We must withhold 35% of any distribution that we could designate as a capital gain dividend. However, if we make a distribution and later designate it as a capital gain dividend, then (although such distribution may be taxable to a non-U.S. shareholder) it is not subject to withholding under FIRPTA. Instead, we must make-up the 35% FIRPTA withholding from distributions made after the designation, until the amount of distributions withheld at 35% equals the amount of the distribution designated as a capital gain dividend. A non-U.S. shareholder may receive a credit against its FIRPTA tax liability for the amount we withhold.

Distributions to a non-U.S. shareholder that we designate at the time of distribution as capital gain dividends which are not attributable to or treated as attributable to our disposition of a U.S. real property interest generally will not be subject to U.S. federal income taxation, except as described below under “— Sale of Shares.”

Sale of Shares. A non-U.S. shareholder generally will not incur tax under FIRPTA on gain from the sale of its common or preferred shares as long as we are a domestically controlled REIT. A “domestically controlled” REIT is a REIT in which at all times during a specified testing period non-U.S. persons held, directly or indirectly, less than 50% in value of our shares. We anticipate that we will continue to be a domestically controlled REIT, but there is no assurance that we will continue to be so. In addition, a non-U.S. shareholder that owns, actually or constructively, 5% or less of a class of our outstanding shares at all times during a specified testing period will not incur tax under FIRPTA on a sale of such shares if the shares are “regularly traded” on an established securities market. If neither of these exceptions were to apply, (i) the gain on the sale of the common or preferred shares would be taxed under FIRPTA, in which case a non-U.S. shareholder would be required to file a U.S. federal income tax return and would be taxed in the same manner as taxable U.S. shareholders with respect to such gain (subject to applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals), and (ii) if the shares sold were not regularly traded on an established securities market or we were not a domestically-controlled REIT, the purchaser of the shares may be required to withhold and remit to the IRS 10% of the purchase price. Additionally, a corporate non-U.S. shareholder may also be subject to the 30% branch profits tax on gains from the sale of shares taxed under FIRPTA.

A non-U.S. shareholder will incur tax on gain not subject to FIRPTA if (1) the gain is effectively connected with the non-U.S. shareholder’s U.S. trade or business, in which case the non-U.S. shareholder will be subject to the same treatment as taxable U.S. shareholders with respect to such gain, or (2) the non-U.S. shareholder is a nonresident alien individual who was present in the U.S. for 183 days or more during the taxable year, in which case the non-U.S. shareholder will incur a 30% tax on his capital gains. Capital gains dividends not subject to FIRPTA will be subject to similar rules. A non-U.S. shareholder that is treated as a corporation for U.S. federal income tax purposes and has effectively connected income (as described in the first point above) may also, under certain circumstances, be subject to an additional branch profits tax, which is generally imposed on a foreign corporation on the deemed repatriation from the United States of effectively connected earnings and profits, at a 30% rate, unless the rate is reduced or eliminated by an applicable income tax treaty.

Wash Sales. In general, special wash sale rules apply if a shareholder owning more than 5% of our common or preferred shares avoids a taxable distribution of gain recognized from the sale or exchange of U.S. real property interests by selling our shares before the ex-dividend date of the distribution and then, within a designated period, enters into an option or contract to acquire shares of the same or a substantially identical class of our shares. If a wash sale occurs, then the seller/repurchaser will be treated as having gain recognized from the

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sale or exchange of U.S. real property interests in the same amount as if the avoided distribution had actually been received. Non-U.S. shareholders should consult their own tax advisors on the special wash sale rules that apply to non-U.S. shareholders.

Information Reporting and Backup Withholding. We must report annually to the IRS and to each non-U.S. shareholder the amount of distributions paid to such holder and the tax withheld with respect to such distributions, regardless of whether withholding was required. Copies of the information returns reporting such distributions and withholding may also be made available to the tax authorities in the country in which the non-U.S. shareholder resides under the provisions of an applicable income tax treaty.

Backup withholding (currently at the rate of 28%) and additional information reporting will generally not apply to distributions to a non-U.S. shareholder provided that the non-U.S. shareholder certifies under penalty of perjury that the shareholder is a non-U.S. shareholder, or otherwise establishes an exemption. As a general matter, backup withholding and information reporting will not apply to a payment of the proceeds of a sale of common or preferred shares effected at a foreign office of a foreign broker. Information reporting (but not backup withholding) will apply, however, to a payment of the proceeds of a sale of common or preferred shares by a foreign office of a broker that:

- is a U.S. person;
- derives 50% or more of its gross income for a specified three-year period from the conduct of a trade or business in the U.S.;
- is a “controlled foreign corporation” (generally, a foreign corporation controlled by stockholders that are United States persons) for U.S. tax purposes; or
- that is a foreign partnership, if at any time during its tax year more than 50% of its income or capital interests are held by U.S. persons or if it is engaged in the conduct of a trade or business in the U.S.,

unless the broker has documentary evidence in its records that the holder or beneficial owner is a non-U.S. shareholder and certain other conditions are met, or the shareholder otherwise establishes an exemption. Payment of the proceeds of a sale of common or preferred shares effected at a U.S. office of a broker is subject to both backup withholding and information reporting unless the shareholder certifies under penalty of perjury that the shareholder is a non-U.S. shareholder, or otherwise establishes an exemption. Backup withholding is not an additional tax, and may be credited against a non-U.S. shareholder’s U.S. federal income tax liability or refunded to the extent excess amounts are withheld, provided that the required information is supplied to the IRS.

Other Tax Considerations

State and Local Taxes. We and/or you may be subject to state and local tax in various states and localities, including those states and localities in which we or you transact business, own property or reside. The state and local tax treatment in such jurisdictions may differ from the federal income tax treatment described above. Consequently, you should consult your own tax advisor regarding the effect of state and local tax laws upon an investment in our securities.

PLAN OF DISTRIBUTION

We may sell the securities being offered by this prospectus in one or more of the following ways from time to time: (1) through underwriters or dealers; (2) through agents; (3) in “at the market offerings” to or through a market maker or into an existing trading market or securities exchange or otherwise; (4) directly to purchasers or shareholders, (5) through a combination of any of these methods of sale or (6) through any other legally available means. In addition, the sales will be made at market prices prevailing at the time of sale, at prices related to such prevailing market prices, at a fixed price or prices, which may be changed or at negotiated prices. We will identify any underwriter, dealer or agent involved in the offer and sale of securities, and any applicable commissions, discounts and other items constituting compensation to such underwriters, dealers or agents, in a prospectus supplement.

The methods by which we may distribute securities include:

- a block trade (which may involve crosses) in which the dealer so engaged will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a dealer as principal and resale by such dealer for its account pursuant to this prospectus or any prospectus supplement;
- ordinary broker transactions and transactions in which the broker solicits purchasers; or
- any other legally available means.

Unless we say otherwise in a prospectus supplement, the obligations of any underwriters to purchase securities will be subject to certain conditions and the underwriters will be obligated to purchase all of the applicable securities if any are purchased. If a dealer is used in a sale, we may sell the securities to the dealer as principal. The dealer may then resell the securities to the public at varying prices to be determined by the dealer at the time of resale.

In connection with the sale of securities, underwriters or agents may receive compensation (in the form of discounts, concessions or commissions) from us or from purchasers of securities for whom they may act as agents. Underwriters may sell securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions, that may be in excess of those customary in the types of transactions involved, from the underwriters and/or commissions from the purchasers for whom they may act as agents. Underwriters, dealers and agents that participate in the distribution of securities may be deemed to be underwriters as that term is defined in the Securities Act, and any discounts or commissions received by them from us and any profits on the resale of the securities by them may be deemed to be underwriting discounts and commissions under the Securities Act. We will identify any such underwriter or agent, and we will describe any such compensation we pay, in the related prospectus supplement.

Underwriters, dealers and agents may be entitled, under agreements with us, to indemnification against and contribution toward certain civil liabilities, including liabilities under the Securities Act.

If we tell you in a prospectus supplement, we will authorize agents and underwriters to solicit offers by certain specified institutions or other persons to purchase securities at the public offering price set forth in the prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a specified date in the future. Institutions with whom such contracts may be made include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions, and other institutions but shall in all cases be subject to our approval. Such contracts will be subject only to those conditions set forth in the prospectus supplement and the prospectus supplement will set forth the commission

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payable for solicitation of such contracts. The obligations of any purchaser under any such contract will be subject to the condition that the purchase of the securities shall not be prohibited at the time of delivery under the laws of the jurisdiction to which the purchaser is subject. The underwriters and other agents will not have any responsibility in respect of the validity or performance of such contracts.

The securities may or may not be listed on a national securities exchange or traded in the over-the-counter market (other than the common shares, which are quoted on the New York Stock Exchange). No assurance can be given as to the liquidity of the trading market for any such securities.

If underwriters or dealers are used in the sale, until the distribution of the securities is completed, SEC rules may limit the ability of any such underwriters and selling group members to bid for and purchase the securities. As an exception to these rules, representatives of any underwriters are permitted to engage in certain transactions that stabilize the price of the securities. Such transactions may consist of bids or purchases for the purpose of pegging, fixing or maintaining the price of the securities. If the underwriters create a short position in the securities in connection with the offerings (in other words, if they sell more securities than are set forth on the cover page of the prospectus supplement) the representatives of the underwriters may reduce that short position by purchasing securities in the open market. The representatives of the underwriters may also elect to reduce any short position by exercising all or part of any over-allotment option described in the prospectus supplement. The representatives of the underwriters may also impose a penalty bid on certain underwriters and selling group members. This means that if the representatives purchase securities in the open market to reduce the underwriters' short position or to stabilize the price of the securities, they may reclaim the amount of the selling concession from the underwriters and selling group members who sold those securities as part of the offering. In general, purchases of a security for the purpose of stabilization or to reduce a short position could cause the price of the security to be higher than it might be in the absence of such purchases. The imposition of a penalty bid might also have an effect on the price of the securities to the extent that it discourages resales of the securities. We make no representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the securities. In addition, the representatives of any underwriters may determine not to engage in such transactions and such transactions, once commenced, may be discontinued without notice.

Certain of the underwriters or agents and their affiliates may engage in transactions with and perform services for us or our affiliates in the ordinary course of their respective businesses.

LEGAL MATTERS

The validity of the offered securities and the accuracy of the discussion under “Material Federal Income Tax Considerations” will be passed upon for us by Pillsbury Winthrop Shaw Pittman LLP, Washington D.C. If any portion of the offered securities is distributed in an underwritten offering or through agents, certain legal matters may be passed upon for any agents or underwriters by counsel for such agents or underwriters identified in the applicable prospectus supplement.

EXPERTS

The financial statements and management’s assessment of the effectiveness of internal control over financial reporting incorporated by reference in this prospectus and elsewhere in the registration statement have been so incorporated by reference in reliance upon the reports of Grant Thornton LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing in giving said reports.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public at the SEC’s website at www.sec.gov. You may also read and copy any document we file at the SEC’s Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operating rules and procedures for the Public Reference Room. Reports, proxy statements and other information concerning Federal Realty Investment Trust may also be inspected at the offices of the New York Stock Exchange, which are currently located at 20 Broad Street, New York, NY 10005.

The SEC allows us to “incorporate by reference” the information we file with them, which means we can disclose important information to you by referring you to those documents. The information we incorporate by reference is an important part of this prospectus, and all information that we will later file with the SEC will automatically update and supersede this information. Any statement contained in this prospectus or a document incorporated or deemed to be incorporated by reference in this prospectus will be deemed to have been modified or superseded to the extent that a statement contained in this prospectus, or in any subsequently filed document that also is or is deemed to be incorporated by reference in this prospectus, modifies or supersedes that statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus. We incorporate by reference the documents listed below as well as any future documents that are deemed to be “filed” with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act (File No. 1-07533) from the date of this prospectus until the termination of the offering of the securities described in this prospectus or the expiration of the registration statement.

- Our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, filed with the SEC on February 26, 2009;
- Our Definitive Proxy Statement for our 2009 Annual Meeting of Shareholders, filed with the SEC on March 26, 2009;
- Our Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2009, filed with the SEC on May 6, 2009;
- Our Current Report on Form 8-K dated January 1, 2009, filed with the SEC on January 5, 2009;
- Our Current Report on Form 8-K date February 17, 2009, filed with the SEC on February 20, 2009;
- Our Current Report on Form 8-K dated March 16, 2009, filed with the SEC on March 19, 2009;

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- Our Current Report on Form 8-K dated May 6, 2009, filed with the SEC on May 11, 2009;
- Our Current Report on Form 8-K dated May 26, 2009, filed with the SEC on May 27, 2009;
- Our Current Report on Form 8-K dated June 4, 2009, filed with the SEC on June 5, 2009;
- Description of our common shares contained in the Registration Statement on Form 8-A/A, filed June 6, 2002; and
- Description of our Common Share Purchase Rights included in the Registration Statement on Form 8-A/A, filed March 11, 1999, in the First Amendment to Amended and Restated Rights Agreement, dated as of November 23, 2003 and filed as an exhibit to the Annual Report on Form 10-K for the year ended December 31, 2003, and in the Second Amendment to Amended and Restated Rights Agreement, dated as of March 16, 2009 and filed as an exhibit to our Current Report on Form 8-K filed on March 19, 2009, each between us and American Stock Transfer & Trust Company.

We have filed with the SEC a registration statement, of which this prospectus is a part, with respect to the securities to be offered by this prospectus. This prospectus and any accompanying prospectus supplement do not contain all of the information set forth in the registration statement and its exhibits and schedules, certain parts of which are omitted as permitted by the rules and regulations of the SEC. For further information with respect to us or the securities offered by this prospectus, please review the registration statement and its exhibits and schedules. Statements contained in this prospectus and any accompanying prospectus supplement regarding the contents of any contract or other document are not necessarily complete and, in each instance, we refer you to the copy of the contract or document filed as an exhibit to the registration statement. Each of these statements is qualified in its entirety by this reference.

Copies of our SEC filings are available at no cost at our website, www.federalrealty.com. In addition, you may request a copy of any report or document incorporated by reference in this prospectus, except the exhibits, unless such exhibits are specifically incorporated by reference in this prospectus or in those documents, at no cost. Any such request may be made by writing or by telephone and shall be directed to the following address:

Federal Realty Investment Trust
1626 East Jefferson Street
Rockville, Maryland 20852
Attention: Investor Relations
(301) 998-8100

You should rely only on the information in our prospectus, any prospectus supplement and the documents that are incorporated by reference. We have not authorized anyone else to provide you with different information. We are not offering these securities in any state where the offer is prohibited by law. You should not assume that the information in this prospectus, any prospectus supplement or any incorporated document is accurate as of any date other than the date of the document.

PART II**INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. Other Expenses of Issuance and Distribution**

Set forth below are the amounts of fees and expenses (other than underwriting discounts and commissions) we will pay in connection with the offering of our securities.

SEC Registration Fee	\$(1)
Printing and Mailing Costs	(2)
Accounting Fees and Expenses	(2)
Legal Fees and Expenses	(2)
Trustee fees and expenses	(2)
Miscellaneous	(2)
Total	\$(2)

(1) In accordance with Rules 456(b) and 457(r), we are deferring payment of the registration fee for the securities offered by this prospectus.

(2) The amounts of such fees and expenses are based on the securities offered and the number of issuances and accordingly are presently unknown.

Item 15. Indemnification of Directors and Officers

The registrant's declaration of trust authorizes the registrant, to the maximum extent permitted by Maryland law, to obligate itself to indemnify and to pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (i) any individual who is a present or former shareholder, trustee or officer of the registrant or (ii) any individual who, while a trustee of the registrant and at the request of the registrant, serves or has served as a director, officer, partner, trustee, employee or agent of another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or any other enterprise from and against any claim or liability to which such person may become subject or which such person may incur by reason of his or her status. The registrant's declaration of trust also permits the registrant, with approval of the registrant's Board of Trustees, to indemnify and advance expenses to any person who served a predecessor of the registrant in any of the capacities described above and to any employee or agent of the registrant or a predecessor of the registrant.

The registrant's bylaws obligate it, to the maximum extent permitted by Maryland law, to indemnify (a) any trustee, officer or shareholder or any former trustee, officer or shareholder, including any individual who, while a trustee, officer or shareholder and at the express request of the registrant, serves or has served another real estate investment trust, corporation, partnership, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, shareholder, manager, member, partner or trustee of such real estate investment trust, corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, who has been successful, on the merits or otherwise, in the defense of a proceeding to which he was made a party by reason of service in such capacity, against reasonable expenses incurred by him in connection with the proceeding, (b) any trustee or officer or any former trustee or officer against any claim or liability to which he may become subject by reason of such status unless it is established that (i) his act or omission was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty, (ii) he actually received an improper personal benefit in money, property or services or (iii) in the case of a criminal proceeding, he had reasonable cause to believe that his act or omission was unlawful and (c) each shareholder or former shareholder against any claim or liability to which he may become subject by reason of such status. In addition, the registrant's bylaws obligate it, without requiring a preliminary determination of the ultimate entitlement to indemnification, to pay or reimburse, in advance of final disposition of a proceeding, reasonable expenses incurred by a trustee, officer or shareholder or former trustee, officer or shareholder made a party to a proceeding by reason of such status, provided that, in the case of a trustee or officer, the registrant must have received from such trustee or officer (i) a written affirmation by the trustee or officer of his good faith belief that he has met the applicable standard of conduct necessary for indemnification by the registrant and (ii) a written undertaking by or on his behalf to repay the amount paid or reimbursed by the registrant if it shall ultimately be determined that the applicable standard of conduct was not met. The registrant may, with the approval of its trustees, provide such indemnification or payment or reimbursement of expenses to any trustee, officer or shareholder or any former trustee, officer or shareholder who served a predecessor of the Trust and to any employee or agent of the registrant or a predecessor of the registrant. Any indemnification or payment or reimbursement of the expenses permitted by the registrant's bylaws will be furnished in accordance with the procedures provided for indemnification or payment or reimbursement of expenses, as the case may be, under Section 2-418 of the Maryland General Corporation Law (the "MGCL") for directors of Maryland corporations. The registrant may provide to trustees, officers and shareholders such other and further indemnification or payment or reimbursement of expenses, as the case may be, to the fullest extent permitted by the MGCL, as in effect from time to time, for directors of Maryland corporations.

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Title 8 of the Corporations and Associations Code of the State of Maryland, as amended, provides that a shareholder or trustee of a Maryland real estate investment trust is not personally liable for the obligations of the real estate investment trust, except that a trustee will be liable in any case in which a trustee otherwise would be liable and the trustee's act constitutes bad faith, willful misfeasance, gross negligence or reckless disregard of the trustee's duties. Title 8 further provides that a Maryland real estate investment trust may indemnify or advance expenses to trustees, officers, employees, and agents of the trust to the same extent as is permitted for directors, officers, employees, and agents of a Maryland corporation. Title 2 of the Corporations and Associations Code of the State of Maryland, as amended, permits a Maryland corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made a party by reason of their service in those or certain related capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, a Maryland corporation may not indemnify a director or officer in a suit by or in the right of the trust if such director or officer has been adjudged to be liable to the corporation.

Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended, may be permitted to trustees, officers or persons controlling the registrant pursuant to the foregoing provisions, the registrant has been informed that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

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Item 16. Exhibits

The following exhibits, as noted, are filed herewith, previously have been filed, or will be filed by amendment.

<u>Exhibit No.</u>	<u>Description</u>
1.1	Form of Underwriting Agreement for Debt Securities*
1.2	Form of Underwriting Agreement for Equity Securities*
3.1	Declaration of Trust of Federal Realty Investment Trust dated May 5, 1999 as amended by the Articles of Amendment of Declaration of Trust of Federal Realty Investment Trust dated May 6, 2004, as corrected by the Certificate of Correction of Articles of Amendment of Declaration of Trust of Federal Realty Investment Trust dated June 17, 2004, as amended by the Articles of Amendment of Declaration of Trust of Federal Realty Investment Trust dated May 6, 2009 (filed herewith)
3.2	Amended and Restated Bylaws of Federal Realty Investment Trust dated February 12, 2003, as amended October 29, 2003, May 5, 2004, February 17, 2006 and May 6, 2009 (filed herewith)
4.1	Specimen Common Share certificate (previously filed as Exhibit 4(i) to the Trust's Annual Report on Form 10-K for the year ended December 31, 1999 (File No. 1-07533) and incorporated herein by reference)
4.2	Articles Supplementary relating to the 5.417% Series 1 Cumulative Convertible Preferred Shares of Beneficial Interest (previously filed as Exhibit 4.1 to the Trust's Current Report on Form 8-K filed on March 13, 2007, (File No. 1-07533) and incorporated herein by reference)
4.3	Amended and Restated Rights Agreement, dated March 11, 1999, between the Trust and American Stock Transfer & Trust Company (previously filed as Exhibit 1 to the Trust's Registration Statement on Form 8-A/A filed on March 11, 1999 (File No. 1-07533) and incorporated herein by reference)
4.4	First Amendment to Amended and Restated Rights Agreement, dated as of November 23, 2003, between the Trust and American Stock Transfer & Trust Company (previously filed as Exhibit 4.5 to the Trust's Annual Report on Form 10-K for the year ended December 31, 2003 (File No. 1-07533) and incorporated herein by reference)
4.5	Second Amendment to Amended and Restated Rights Agreement, dated as of March 11, 2009, between the Trust and American Stock Transfer & Trust Company (previously filed as Exhibit 4.3 to the Trust's current Report on Form 8-K (File No. 001-07533) and incorporated herein by reference)
4.6	Indenture dated December 1, 1993 related to the Trust's 7.48% Debentures due August 15, 2026; and 6.82% Medium Term Notes due August 1, 2027; (previously filed as Exhibit 4(a) to the Trust's Registration Statement on Form S-3 (File No. 33-51029), and amended on Form S-3 (File No. 33-63687), filed on December 13, 1993 and incorporated herein by reference)
4.7	Indenture dated September 1, 1998 related to the Trust's 8.75% Notes due December 1, 2009; 6 1/8% Notes due November 15, 2007; 4.50% Notes due 2011; 5.65% Notes due 2016; 6.00% Notes due 2012; 6.20% Notes due 2017; and 5.40% Notes due 2013 (previously filed as Exhibit 4(a) to the Trust's Registration Statement on Form S-3 (File No. 333-63619) filed on September 17, 1998 and incorporated herein by reference)
4.8	Form of Subordinated Indenture*
4.9	Form of Warrant Agreement*

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<u>Exhibit No.</u>	<u>Description</u>
4.10	Form of Certificate for Preferred Shares*
4.11	Form of Deposit Agreement and Depositary Receipt*
5.1	Opinion of Pillsbury Winthrop Shaw Pittman LLP regarding the legality of the securities being registered (filed herewith)
8.1	Opinion of Pillsbury Winthrop Shaw Pittman LLP regarding certain federal income tax matters (filed herewith)
12.1	Statement of Computation of Ratios of Earnings to Fixed Charges and Preferred Stock Dividends (filed herewith)
23.1	Consent of Grant Thornton LLP (filed herewith)
23.2	Consent of Pillsbury Winthrop Shaw Pittman LLP (included in Exhibits 5.1 and 8.1)
24.1	Power of Attorney (filed herewith)
25.1	Statement of Eligibility of Trustee on Form T-1*

* To be filed by amendment or incorporated by reference in connection with the offering of the offered securities.

Item 17. Undertakings.

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) herein do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Securities and Exchange Commission by the undersigned registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, as amended, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act of 1933, as amended, to any purchaser:

(i) each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933, as amended, shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed

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to be a new effective date of the registration statement relating to the securities in the registration statement to which the prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933, as amended, to any purchaser in the initial distribution of the securities:

the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- (i) any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
- (ii) any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
- (iii) the portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
- (iv) any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, as amended, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended, may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that, in the opinion of the Securities and Exchange Commission, such indemnification is against public policy as expressed in the Securities Act of 1933, as amended, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than for the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933, as amended, and will be governed by the final adjudication of such issue.

(d) The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Securities and Exchange Commission under Section 305(b)(2) of the Trust Indenture Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Rockville, State of Maryland, on June 16, 2009.

FEDERAL REALTY INVESTMENT TRUST

By: /s/ Andrew P. Blocher
Andrew P. Blocher
Senior Vice President-Chief Financial Officer and
Treasurer

Pursuant to the requirements of the Securities Act of 1933, the registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ Donald C. Wood</u> Donald C. Wood	President, Chief Executive Officer and Trustee (principal executive officer)	June 16, 2009
<u>/s/ Andrew P. Blocher</u> Andrew P. Blocher	Senior Vice President-Chief Financial Officer and Treasurer (principal financial and accounting officer)	June 16, 2009
<u>/s/ Joseph S. Vassalluzzo*</u> Joseph S. Vassalluzzo	Non-Executive Chairman	June 16, 2009
<u>/s/ Jon E. Bortz*</u> Jon E. Bortz	Trustee	June 16, 2009
<u>/s/ David W. Faeder*</u> David W. Faeder	Trustee	June 16, 2009
<u>/s/ Kristin Gamble*</u> Kristin Gamble	Trustee	June 16, 2009

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<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ Gail P. Steinel*</u> Gail P. Steinel	Trustee	June 16, 2009
<u>/s/ Warren M. Thompson*</u> Warren M. Thompson	Trustee	June 16, 2009

*By: /s/ Dawn M. Becker
Dawn M. Becker
Attorney-in-fact

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
1.1	Form of Underwriting Agreement for Debt Securities*
1.2	Form of Underwriting Agreement for Equity Securities*
3.1	Declaration of Trust of Federal Realty Investment Trust dated May 5, 1999 as amended by the Articles of Amendment of Declaration of Trust of Federal Realty Investment Trust dated May 6, 2004, as corrected by the Certificate of Correction of Articles of Amendment of Declaration of Trust of Federal Realty Investment Trust dated June 17, 2004, as amended by the Articles of Amendment of Declaration of Trust of Federal Realty Investment Trust dated May 6, 2009 (filed herewith)
3.2	Amended and Restated Bylaws of Federal Realty Investment Trust dated February 12, 2003, as amended October 29, 2003, May 5, 2004, February 17, 2006 and May 6, 2009 (filed herewith)
4.1	Specimen Common Share certificate (previously filed as Exhibit 4(i) to the Trust's Annual Report on Form 10-K for the year ended December 31, 1999 (File No. 1-07533) and incorporated herein by reference)
4.2	Articles Supplementary relating to the 5.417% Series 1 Cumulative Convertible Preferred Shares of Beneficial Interest (previously filed as Exhibit 4.1 to the Trust's Current Report on Form 8-K filed on March 13, 2007, (File No. 1-07533) and incorporated herein by reference)
4.3	Amended and Restated Rights Agreement, dated March 11, 1999, between the Trust and American Stock Transfer & Trust Company (previously filed as Exhibit 1 to the Trust's Registration Statement on Form 8-A/A filed on March 11, 1999 (File No. 1-07533) and incorporated herein by reference)
4.4	First Amendment to Amended and Restated Rights Agreement, dated as of November 23, 2003, between the Trust and American Stock Transfer & Trust Company (previously filed as Exhibit 4.5 to the Trust's Annual Report on Form 10-K for the year ended December 31, 2003 (File No. 1-07533) and incorporated herein by reference)
4.5	Second Amendment to Amended and Restated Rights Agreement, dated as of March 11, 2009, between the Trust and American Stock Transfer & Trust Company (previously filed as Exhibit 4.3 to the Trust's current Report on Form 8-K (File No. 001-07533) and incorporated herein by reference)
4.6	Indenture dated December 1, 1993 related to the Trust's 7.48% Debentures due August 15, 2026; and 6.82% Medium Term Notes due August 1, 2027; (previously filed as Exhibit 4(a) to the Trust's Registration Statement on Form S-3 (File No. 33-51029), and amended on Form S-3 (File No. 33-63687), filed on December 13, 1993 and incorporated herein by reference)
4.7	Indenture dated September 1, 1998 related to the Trust's 8.75% Notes due December 1, 2009; 6 1/8% Notes due November 15, 2007; 4.50% Notes due 2011; 5.65% Notes due 2016; 6.00% Notes due 2012; 6.20% Notes due 2017; and 5.40% Notes due 2013 (previously filed as Exhibit 4(a) to the Trust's Registration Statement on Form S-3 (File No. 333-63619) filed on September 17, 1998 and incorporated herein by reference)
4.8	Form of Subordinated Indenture*
4.9	Form of Warrant Agreement*
4.10	Form of Certificate for Preferred Shares*
4.11	Form of Deposit Agreement and Depositary Receipt*
5.1	Opinion of Pillsbury Winthrop Shaw Pittman LLP regarding the legality of the securities being registered (filed herewith)
8.1	Opinion of Pillsbury Winthrop Shaw Pittman LLP regarding certain federal income tax matters (filed herewith)
12.1	Statement of Computation of Ratios of Earnings to Fixed Charges and Preferred Stock Dividends (filed herewith)

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<u>Exhibit No.</u>	<u>Description</u>
23.1	Consent of Grant Thornton LLP (filed herewith)
23.2	Consent of Pillsbury Winthrop Shaw Pittman LLP (included in Exhibits 5.1 and 8.1)
24.1	Power of Attorney (filed herewith)
25.1	Statement of Eligibility of Trustee on Form T-1*

* To be filed by amendment or incorporated by reference in connection with the offering of the offered securities.

FEDERAL REALTY INVESTMENT TRUST**DECLARATION OF TRUST**

Dated May 5, 1999

This DECLARATION OF TRUST is made as of the date set forth above by the undersigned Trustees (as defined herein) and amends and restates the Third Amended and Restated Declaration of Trust of Federal Realty Investment Trust.

ARTICLE I**NAME**

The name of the Trust (as hereinafter defined) is:

Federal Realty Investment Trust

Under circumstances in which the Board of Trustees of the Trust (the "Board of Trustees" or "Board") determines that the use of the name of the Trust is not practicable, the Trust may use any other designation or name for the Trust.

ARTICLE II**FORMATION**

The Trust (the "Trust") is a real estate investment trust within the meaning of Title 8 of the Corporations and Associations Article of the Annotated Code of Maryland ("Title 8"). The Trust shall not be deemed to be a general partnership, limited partnership, joint venture, joint stock company or a corporation but nothing herein shall preclude the Trust from being treated for tax purposes as an association under the Internal Revenue Code of 1986, as amended (the "Code").

ARTICLE III**PURPOSES AND POWERS**

Section 3.1 Purposes. The purposes for which the Trust has been formed are to invest in and to acquire, hold, develop, redevelop, manage, administer, control, lease and dispose of interests in property, including, without limitation or obligation, engaging in business as a real estate investment trust under the Code or any other lawful activity for which real estate investment trusts may be organized under Title 8 as now or hereafter in force.

Section 3.2 Powers. The Trust has all of the powers granted to real estate investment trusts by Title 8 and all other powers set forth in the Declaration of Trust which are not inconsistent with law and are appropriate to promote and attain the purposes set forth in the Declaration of Trust.

ARTICLE IV

RESIDENT AGENT

The name of the resident agent of the Trust in the State of Maryland is CSC Lawyers Incorporating Service Company, whose post office address is 11 E. Chase Street, Baltimore, Maryland 21202. The resident agent is a resident of the State of Maryland. The Trust may have such offices or places of business within or outside the State of Maryland as the Board of Trustees may from time to time determine.

ARTICLE V

BOARD OF TRUSTEES

Section 5.1 Powers. Subject to any express limitations contained in the Declaration of Trust or in the Bylaws, (a) the business and affairs of the Trust shall be managed under the direction of the Board of Trustees and (b) the Board shall have full, exclusive and absolute power, control and authority over any and all property of the Trust. The Board may take any action as in its sole judgment and discretion is necessary or appropriate to conduct the business and affairs of the Trust. The Declaration of Trust shall be construed with the presumption in favor of the grant of power and authority to the Board. Any construction of the Declaration of Trust or determination made in good faith by the Board concerning its powers and authority hereunder shall be conclusive. The enumeration and definition of particular powers of the Trustees included in the Declaration of Trust or in the Bylaws shall in no way be construed or deemed by inference or otherwise in any manner to exclude or limit the powers conferred upon the Board or the Trustees under the general laws of the State of Maryland or any other applicable laws.

The Board, without any action by the shareholders of the Trust, shall have and may exercise, on behalf of the Trust, without limitation, the power to terminate the status of the Trust as a real estate investment trust under the Code; to determine that compliance with any restriction or limitations on ownership and transfers of shares of the Trust's beneficial interest set forth in Article VII of the Declaration of Trust is no longer required in order for the Trust to qualify as a REIT; to adopt, amend and repeal Bylaws; to elect officers in the manner prescribed in the Bylaws; to solicit proxies from holders of shares of beneficial interest of the Trust; and to do any other acts and deliver any other documents necessary or appropriate to the foregoing powers.

Section 5.2 Number and Classification. Upon acceptance for record of this Declaration of Trust, the number of Trustees (hereinafter the "Trustees") is seven, which number may be increased or decreased by the Board of Trustees; provided, however, that the total number of Trustees shall be at least three (3) and not more than fifteen (15). Except for Trustees elected solely by holders of one or more series of Preferred Shares, the Trustees shall be elected at every third annual meeting of shareholders in the manner provided in the Bylaws or, in order to fill any vacancy on the Board of Trustees, in the manner provided in the Bylaws. The names and classes of the Trustees who shall serve until the annual meeting of shareholders at which their class comes up for reelection (as provided herein) and until their successors are duly elected and qualify are:

<u>Name</u>	<u>Class</u>
Kenneth D. Brody	I
A. Cornet de Ways Ruart	I
Walter F. Loeb	I
Dennis L. Berman	II
Kristin Gamble	II
Steven J. Guttman	III
Mark S. Ordan	III

Subject to the rights of holders of one or more classes or series of Preferred Shares then outstanding, any vacancy on the Board of Trustees (including a vacancy created by an increase in the number of Trustees) may be filled by a majority of the remaining Trustees or, if the remaining Trustees fail to act or there is no remaining Trustee, by the vote of holders of at least a majority of the Common Shares entitled to vote thereon and present in person or by proxy at any meeting of the shareholders called for that purpose. It shall not be necessary to list in the Declaration of Trust the names and addresses of any Trustees hereinafter elected.

Class I Trustees shall hold office initially for a term expiring at the annual meeting of shareholders in 2000, Class II Trustees shall hold office initially for a term expiring at the annual meeting of shareholders in 2001 and Class III Trustees shall hold office initially for a term expiring at the annual meeting of shareholders in 2002, with the Trustees of each class to hold office until their successors are duly elected and qualify. At each annual meeting of shareholders, the successors to the class of Trustees whose term expires at such meeting shall be elected to hold office for a term expiring at the annual meeting of shareholders held in the third year following the year of their election and until their successors are duly elected and qualify.

Section 5.3 Resignation or Removal. Any Trustee may resign by written notice to the Board, effective upon execution and delivery to the Trust of such written notice or upon any future date specified in the notice. Subject to the rights of holders of one or more classes or series of Preferred Shares to elect or remove one or more Trustees, a Trustee may be removed at any time, (i) with or without cause, at any meeting of the shareholders called for the purpose, either by the affirmative vote of the holders of not less than two-thirds of the Shares then outstanding and entitled to vote thereon if such removal is approved or recommended by a vote of not less than two-thirds of the Trustees or by the affirmative vote of the holders of not less than eighty percent of the Shares then outstanding and entitled to vote thereon if such removal is not approved or recommended by a vote of at least two-thirds of the Trustees, or (ii) with cause, by the vote of all the other Trustees. For purposes of this Declaration, "cause", with respect to the removal of any Trustee, shall mean only (i) conviction of a felony, (ii) declaration of unsound mind by order of a court, (iii) gross dereliction of duty, (iv) conviction of any crime involving moral turpitude, (v) commission of an act that constitutes intentional misconduct or a knowing violation of law if such action in either event results both in an improper substantial personal benefit to such Trustee and a material injury to the Trust or (vi) a unanimous determination by the remaining Trustees that "cause" exists for the removal of the Trustee.

ARTICLE VI

SHARES OF BENEFICIAL INTEREST

Section 6.1 Authorized Shares. The beneficial interest of the Trust shall be divided into shares of beneficial interest (the “Shares”). The Trust has authority to issue 100,000,000 common shares of beneficial interest, \$.01 par value per share (“Common Shares”), and 15,000,000 preferred shares of beneficial interest, \$.01 par value per share (“Preferred Shares”), of which 4,000,000 shares are Series A Cumulative Redeemable Preferred Shares (the “Series A Preferred Shares”). If shares of one class are classified or reclassified into shares of another class of shares pursuant to this Article VI, the number of authorized shares of the former class shall be automatically decreased and the number of shares of the latter class shall be automatically increased, in each case by the number of shares so classified or reclassified, so that the aggregate number of shares of beneficial interest of all classes that the Trust has authority to issue shall not be more than the total number of shares of beneficial interest set forth in the second sentence of this paragraph. The Board of Trustees, without any action by the shareholders of the Trust, may amend the Declaration of Trust from time to time to increase or decrease the aggregate number of Shares or the number of Shares of any class or series that the Trust has authority to issue.

Section 6.2 Common Shares. Subject to the provisions of Article VII, each Common Share entitles the holder thereof to one vote on each matter upon which holders of Common Shares are entitled to vote. The Board of Trustees may reclassify any unissued Common Shares from time to time in one or more classes or series of Shares.

Section 6.3 Preferred Shares. The Board of Trustees may classify any unissued Preferred Shares and reclassify any previously classified but unissued Preferred Shares of any series from time to time, in one or more series of Shares.

Section 6.4 Series A Preferred Shares.

Section 6.4.1 Number of Shares. The number of shares of Series A Preferred Shares is 4,000,000.

Section 6.4.2 Definitions. In this Section 6.4, the following terms shall have the following meanings herein:

- (a) “Board of Trustees” shall mean the Board of Trustees of the Trust or any committee authorized by the Board of Trustees to perform any of its responsibilities with respect to the Series A Preferred Shares.
- (b) “Business Day” shall mean any day other than a Saturday, Sunday or day on which state or federally chartered banking institutions in New York City, New York are not required to be open.
- (c) “Call Date” shall have the meaning set forth in Section 6.4.6(b).
- (d) “Capital Gains Amount” shall have the meaning set forth in Section 6.4.3(d).

- (e) "Dividend Payment Date" shall mean the last calendar day (or, if such day is not a Business Day, the next Business Day thereafter) of each January, April, July and October, commencing on October 31, 1997.
- (f) "Dividend Periods" shall mean quarterly dividend periods commencing on February 1, May 1, August 1 and November 1 of each year and ending on and including the day of the next succeeding Dividend Payment Date (other than the initial Dividend Period, which shall commence on the Issue Date, and other than the Dividend Period during which any Series A Preferred Shares shall be redeemed pursuant to Section 6.4.6, which shall end on and include the Call Date with respect to the Series A Preferred Shares being redeemed).
- (g) "Fully Junior Shares" shall mean the Common Shares and any other class or series of shares of beneficial interest of the Trust now or hereafter issued and outstanding over which the Series A Preferred Shares has preference or priority in both (i) the payment of dividends and (ii) the distribution of assets on any liquidation, dissolution or winding up of the Trust.
- (h) "Issue Date" shall mean the first date on which the pertinent Series A Preferred Shares are issued and sold.
- (i) "Junior Shares" shall mean the Common Shares and any other class or series of shares of beneficial interest of the Trust now or hereafter issued and outstanding over which the Series A Preferred Shares has preference or priority in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Trust.
- (j) "Parity Shares" shall have the meaning set forth in Section 6.4.8(b).
- (k) "Preferred Shares" shall mean the preferred shares of the Trust, \$.01 par value per share.
- (l) "Series A Preferred Shares" shall have the meaning set forth in Section 6.1.
- (m) "Set apart for payment" shall be deemed to include, without any action other than the following, the recording by the Trust in its accounting ledgers of any accounting or bookkeeping entry which indicates, pursuant to a declaration of dividends or other distribution by the Board of Trustees, the allocation of funds to be so paid on any series or class of shares of beneficial interest of the Trust; provided, however, that if any funds for any class or series of Junior Shares or Fully Junior Shares or any class or series of shares of beneficial interest ranking on a parity with the Series A Preferred Shares as to the payment of dividends are placed in a separate account of the Trust or delivered to a disbursing, paying or other similar agent, then "set apart for payment" with respect to the Series A Preferred Shares shall mean placing such funds in such separate account or delivering such funds to a disbursing, paying or other similar agent.
- (n) "Total Dividends" shall have the meaning set forth in Section 6.4.3(d).
- (o) "Transfer Agent" means American Stock Transfer & Trust Company, or such other agent or agents of the Trust as may be designated by the Board of Trustees or their designee as the transfer agent, registrar and dividend disbursing agent for the Series A Preferred Shares.

Section 6.4.3 Dividends.

(a) The holders of Series A Preferred Shares shall be entitled to receive, when, as and if authorized by the Board of Trustees out of funds legally available for that purpose, cumulative, preferential dividends payable in cash at the rate of \$1.9875 per annum per share. Such dividend shall begin to accrue and shall be fully cumulative from the Issue Date, whether or not in any Dividend Period or Periods there shall be funds of the Trust legally available for the payment of such dividends, and shall be payable quarterly, when, as and if authorized by the Board of Trustees, in arrears on Dividend Payment Dates, commencing on the first Dividend Payment Date after the Issue Date. Such dividends shall be payable in arrears to the holders of record of Series A Preferred Shares, as they appear on the stock records of the Trust at the close of business on the record date, not more than 50 nor less than 10 days preceding the relevant Dividend Payment Date, as shall be fixed by the Board of Trustees. Accrued and unpaid dividends for any past Dividend Periods may be declared and paid on any date and for such interim periods, without reference to any regular Dividend Payment Date, to holders of record on such date, not exceeding 50 days preceding the payment date thereof, as may be fixed by the Board of Trustees. Any dividend payment made on the Series A Preferred Shares shall first be credited against the earliest accrued but unpaid dividend due with respect to the Series A Preferred Shares which remains payable.

(b) The amount of dividends referred to in Section 6.4.3(a) payable for each full Dividend Period for the Series A Preferred Shares shall be computed by dividing the annual dividend rate by four, except that the amount of dividends payable for the initial Dividend Period, and for any Dividend Period shorter than a full Dividend Period, for the Series A Preferred Shares shall be computed on the basis of the actual number of days in such Dividend Period. Holders of Series A Preferred Shares shall not be entitled to any dividends, whether payable in cash, property or shares of stock, in excess of cumulative dividends, as herein provided, on the Series A Preferred Shares. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Series A Preferred Shares that may be in arrears.

(c) Dividends on Series A Preferred Shares will accrue whether or not the Trust has earnings, whether or not there are funds legally available for the payment of such dividends and whether or not such dividends are declared.

(d) If, for any taxable year, the Trust elects to designate as "capital gain dividends" (as defined in Section 857 of the Code) any portion (the "Capital Gains Amount") of the total dividends (within the meaning of the Code) paid or made available for the year to holders of all classes of shares of beneficial interest (the "Total Dividends"), then the portion of the Capital Gains Amount that shall be allocated to holders of Series A Preferred Shares shall be in the same portion that the Total Dividends paid or made available to the holders of Series A Preferred Shares for the year bears to the Total Dividends.

(e) So long as any Series A Preferred Shares are outstanding, no dividends, except as described in the immediately following sentence, shall be declared or paid or set apart for payment on any class or series of Parity Shares for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for such payment on the Series A Preferred Shares for all Dividend Periods terminating on or prior to the dividend payment date for such class or series of Parity Shares.

When dividends are not paid in full or a sum sufficient for such payment is not set apart, as aforesaid, all dividends declared upon Series A Preferred Shares and all dividends declared upon any other class or series of Parity Shares shall be declared ratably in proportion to the respective amounts of dividends accumulated and unpaid on the Series A Preferred Shares and accumulated and unpaid on such Parity Shares.

(f) So long as any Series A Preferred Shares are outstanding, no dividends (other than dividends or distributions paid solely in shares of, or options, warrants or rights to subscribe for or purchase shares of, Fully Junior Shares) shall be declared or paid or set apart for payment or other distribution declared or made upon Junior Shares or Fully Junior Shares, nor shall any Junior Shares or Fully Junior Shares be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of Common Shares made for purposes of any employee incentive or benefit plan of the Trust or any subsidiary) for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any such shares) by the Trust, directly or indirectly (except by conversion into or exchange for shares of Fully Junior Shares), unless in each case (i) the full cumulative dividends on all outstanding Series A Preferred Shares and any other Parity Shares of the Trust shall have been or contemporaneously are declared and paid or declared and set apart for payment for all past Dividend Periods with respect to the Series A Preferred Shares and all past dividend periods with respect to such Parity Shares and (ii) sufficient funds shall have been or contemporaneously are declared and paid or declared and set apart for the payment of the dividend for the current Dividend Period with respect to the Series A Preferred Shares and the current dividend period with respect to such Parity Shares.

(g) No dividends on Series A Preferred Shares shall be authorized by the Board of Trustees or paid or set apart for payment by the Trust at such time as the terms and provisions of any agreement of the Trust, including any agreement relating to its indebtedness, prohibits such authorization, payment or setting apart for payment or provides that such authorization, payment or setting apart for payment would constitute a breach thereof or a default thereunder, or if such authorization or payment shall be restricted or prohibited by law.

Section 6.4.4 Liquidation Rights.

(a) In the event of any liquidation, dissolution or winding up of the Trust, whether voluntary or involuntary, before any payment or distribution of the assets of the Trust (whether capital or surplus) shall be made to or set apart for the holders of Junior Shares, the holders of the Series A Preferred Shares shall be entitled to receive Twenty Five Dollars (\$25.00) per share of Series A Preferred Shares plus an amount equal to all dividends (whether or not earned or declared) accrued and unpaid thereon to the date of final distribution to such holders; but such holders shall not be entitled to any further payment. If, upon any liquidation, dissolution or winding up of the Trust, the assets of the Trust, or proceeds thereof, distributable among the holders of the Series A Preferred Shares shall be insufficient to pay in full the preferential amount aforesaid and liquidating payments on any other shares of any class or series of Parity Shares, then such assets, or the proceeds thereof, shall be distributed among the holders of the Series A Preferred Shares and any such other Parity Shares ratably in accordance with the respective amounts that would be payable on such Series A Preferred Shares and any such other Parity Shares if all amounts payable thereon were paid in full. For the purposes of this Section 6.4.4, (i) a consolidation or merger of the Trust with one or more corporations, real estate investment trusts, or other entities,

(ii) a sale, lease or transfer of all or substantially all of the Trust's assets, or (iii) a statutory share exchange shall not be deemed to be a liquidation, dissolution or winding up, voluntary or involuntary, of the Trust.

(b) Subject to the rights of the holders of shares of any series or class of beneficial interest ranking on a parity with or prior to the Series A Preferred Shares upon liquidation, dissolution or winding up, upon any liquidation, dissolution or winding up of the Trust, after payment shall have been made in full to the holders of the Series A Preferred Shares, as provided in this Section 6.4.4, any other series or class of Junior Shares or Fully Junior Shares shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the Series A Preferred Shares shall not be entitled to share therein.

Section 6.4.5 Conversion. The Series A Preferred Shares are not convertible or exchangeable for any other property or securities of the Trust.

Section 6.4.6 Redemption at the Option of the Trust.

(a) The Series A Preferred Shares shall not be redeemable by the Trust prior to October 6, 2002. On and after October 6, 2002, the Trust, at its option, may redeem the Series A Preferred Shares, in whole or in part at any time or from time to time, at a redemption price of Twenty-Five Dollars (\$25.00) per share of Series A Preferred Shares, plus the amounts indicated in Section (b).

(b) Upon any redemption of the Series A Preferred Shares pursuant to this Section 6.4.6, the Trust shall pay all accrued and unpaid dividends, if any, thereon ending on or prior to the date of such redemption (the "Call Date"), without interest. If the Call Date falls after a dividend payment record date and prior to the corresponding Dividend Payment Date, then each holder of Series A Preferred Shares at the close of business on such dividend payment record date shall be entitled to the dividend payable on such shares on the corresponding Dividend Payment Date notwithstanding the redemption of such shares before such Dividend Payment Date. Except as provided above, the Trust shall make no payment or allowance for unpaid dividends, whether or not in arrears, on shares of Series A Preferred Shares called for redemption.

(c) If full cumulative dividends on the Series A Preferred Shares and any other class or series of Parity Shares of the Trust have not been declared and paid or declared and set apart for payment, the Series A Preferred Shares or Parity Shares may not be redeemed under this Section 6.4.6 in part and the Trust may not purchase or acquire the Series A Preferred Shares or any Parity Shares, otherwise than pursuant to a purchase or exchange offer made on the same terms to all holders of Series A Preferred Shares or Parity Shares, as the case may be.

(d) Notice of the redemption of any Series A Preferred Shares under this Section 6.4.6 shall be mailed by first-class mail to each holder of record of Series A Preferred Shares to be redeemed at the address of each such holder as shown on the Trust's records, not less than 30 nor more than 90 days prior to the Call Date. Neither the failure to mail any notice required by this Section 6.4.6(d), nor any defect therein or in the mailing thereof, to any particular holder, shall affect the sufficiency of the notice or the validity of the proceedings for redemption with respect to the other holders. Any notice which was mailed in the manner herein provided shall be conclusively

presumed to have been duly given on the date mailed whether or not the holder receives the notice. Each such mailed notice shall state, as appropriate: (1) the Call Date; (2) the number of shares of Series A Preferred Shares to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the redemption price per share; (4) the place or places at which certificates for such shares are to be surrendered; and (5) that dividends on the shares to be redeemed shall cease to accrue on such Call Date except as otherwise provided herein. Notice having been mailed as aforesaid, from and after the Call Date (unless the Trust shall fail to make available an amount of cash necessary to effect such redemption), (i) except as otherwise provided herein, dividends on the Series A Preferred Shares so called for redemption shall cease to accrue, (ii) shares of such Series A Preferred Shares shall no longer be deemed to be outstanding, and (iii) all rights of the holders thereof as holders of Series A Preferred Shares of the Trust shall cease (except the right to receive cash payable under such redemption, without interest thereon, upon surrender and endorsement of their certificates if so required and to receive any dividends payable thereon). The Trust's obligation to provide cash in accordance with the preceding sentence shall be deemed fulfilled if, on or before the Call Date, the Trust shall deposit with a bank or trust company (which may be an affiliate of the Trust) that has an office in Maryland and that has, or is an affiliate of a bank or trust company that has, capital and surplus of at least \$50,000,000, the amount of cash necessary for such redemption, in trust, with irrevocable instructions that such cash be applied to the redemption of the Series A Preferred Shares so called for redemption. No interest shall accrue for the benefit of the holders of Series A Preferred Shares to be redeemed on any cash so set aside by the Trust. Subject to applicable escheat laws, any such cash unclaimed at the end of two years from the Call Date shall revert to the general funds of the Trust, after which reversion the holders of such shares so called for redemption shall look only to the general funds of the Trust for the payment of such cash.

As promptly as practicable after the surrender in accordance with said notice of the certificates for any such shares so redeemed (properly endorsed or assigned for transfer, if the Trust shall so require and if the notice shall so state), such shares shall be exchanged for any cash (without interest thereon) for which such shares have been redeemed. If fewer than all the outstanding Series A Preferred Shares are to be redeemed, shares to be redeemed shall be selected by the Trust from outstanding Series A Preferred Shares not previously called for redemption by lot or pro rata (as nearly as may be) or by any other method determined by the Trust in its sole discretion to be equitable. If fewer than all the Series A Preferred Shares represented by any certificate are redeemed, then new certificates representing the unredeemed shares shall be issued without cost to the holder thereof.

Section 6.4.7 Shares to be Retired. All Series A Preferred Shares which shall have been issued and reacquired in any manner by the Trust shall be restored to the status of authorized but unissued Preferred Shares, without designation as to class or series.

Section 6.4.8 Ranking. Any class or series of shares of beneficial interest of the Trust shall be deemed to rank:

(a) prior to the Series A Preferred Shares, as to the payment of dividends and as to distribution of assets upon liquidation, dissolution or winding up, if the holders of such class or series shall be entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up, as the case may be, in preference or priority to the holders of Series A Preferred Shares;

(b) on a parity with the Series A Preferred Shares, as to the payment of dividends and as to distribution of assets upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates or redemption or liquidation prices per share thereof be different from those of the Series A Preferred Shares, if the holders of such class or series of shares and the Series A Preferred Shares shall be entitled to the receipt of dividends and of amounts distributable upon liquidation, dissolution or winding up in proportion to their respective amounts of accrued and unpaid dividends per share or liquidation preferences, without preference or priority one over the other ("Parity Shares");

(c) junior to the Series A Preferred Shares, as to the payment of dividends or as to the distribution of assets upon liquidation, dissolution or winding up, if such shares shall be Junior Shares; and

(d) junior to the Series A Preferred Shares, as to the payment of dividends and as to the distribution of assets upon liquidation, dissolution or winding up, if such shares shall be Fully Junior Shares.

Section 6.4.9 Voting. If and whenever six consecutive quarterly dividends payable on the Series A Preferred Shares or any series or class of Parity Shares shall be in arrears (which shall, with respect to any such quarterly dividend, mean that any such dividend has not been paid in full), whether or not declared, the number of trustees then constituting the Board of Trustees shall be increased by two, and the holders of Series A Preferred Shares, together with the holders of shares of every other series of Parity Shares, voting as a single class regardless of series, shall be entitled to elect the two additional trustees to serve on the Board of Trustees at any annual meeting of shareholders or special meeting held in place thereof, or at a special meeting of the holders of the Series A Preferred Shares and the Parity Shares called as hereinafter provided. Whenever all arrears in dividends on the Series A Preferred Shares and the Parity Shares then outstanding shall have been paid and dividends thereon for the current quarterly dividend period shall have been paid or declared and set apart for payment, then the right of the holders of the Series A Preferred Shares and the Parity Shares to elect such additional two trustees shall immediately cease (but subject always to the same provision for the vesting of such voting rights in the case of any similar future arrearages in six consecutive quarterly dividends), and the terms of office of all persons elected as trustees by the holders of the Series A Preferred Shares and the Parity Shares shall immediately terminate and the number of the Board of Trustees shall be reduced accordingly. At any time after such voting rights shall have been so vested in the holders of Series A Preferred Shares and the Parity Shares, the secretary of the Trust may, and upon the written request of any holder of Series A Preferred Shares (addressed to the secretary at the principal office of the Trust) shall, call a special meeting of the holders of the Series A Preferred Shares and of the Parity Shares for the election of the two trustees to be elected by them as herein provided, such call to be made by notice similar to that provided in the Bylaws of the Trust for a special meeting of the shareholders or as required by law. If any such special meeting required to be called as above provided shall not be called by the secretary within 20 days after

receipt of any such request, then any holder of Series A Preferred Shares may call such meeting, upon the notice above provided, and for that purpose shall have access to the share records of the Trust. The trustees elected at any such special meeting shall hold office until the next annual meeting of the shareholders or special meeting held in lieu thereof if such office shall not have previously terminated as above provided. If any vacancy shall occur among the trustees elected by the holders of the Series A Preferred Shares and the Parity Shares, a successor shall be elected by the Board of Trustees, upon the nomination of the then remaining trustee elected by the holders of the Series A Preferred Shares and the Parity Shares or the successor of such remaining trustee, to serve until the next annual meeting of the shareholders or special meeting held in place thereof if such office shall not have previously terminated as provided above.

So long as any Series A Preferred Shares are outstanding, in addition to any other vote or consent of shareholders required by law or by the Declaration, the affirmative vote of at least 66-2/3% of the votes entitled to be cast by the holders of the Series A Preferred Shares and the Parity Shares, at the time outstanding, acting as a single class regardless of series, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating:

(a) Any amendment, alteration or repeal of any of the provisions of the Declaration that materially and adversely affects the voting powers, rights or preferences of the holders of the Series A Preferred Shares or the Parity Shares; provided, however, that the amendment of the provisions of the Declaration so as to authorize or create or to increase the authorized amount of shares of any class of any Fully Junior Shares or Junior Shares that are not senior in any respect to the Series A Preferred Shares, or any shares of any class ranking on a parity with the Series A Preferred Shares or the Parity Shares, shall not be deemed to materially adversely affect the voting powers, rights or preferences of the holders of Series A Preferred Shares; and provided further, that if any such amendment, alteration or repeal would materially and adversely affect any voting powers, rights or preferences of the Series A Preferred Shares or another series of Parity Shares that are not enjoyed by some or all of the other series otherwise entitled to vote in accordance herewith, the affirmative vote of at least 66-2/3% of the votes entitled to be cast by the holders of all series similarly affected, similarly given, shall be required in lieu of the affirmative vote of at least 66-2/3% of the votes entitled to be cast by the holders of the Series A Preferred Shares and the Parity Shares otherwise entitled to vote in accordance herewith; or

(b) A share exchange that affects the Series A Preferred Shares, a consolidation with or merger of the Trust into another entity, or a consolidation with or merger of another entity into the Trust, unless in each such case each share of Series A Preferred Shares (i) shall remain outstanding without a material and adverse change to its terms and rights or (ii) shall be converted into or exchanged for preferred stock of the surviving entity having preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications and terms or conditions of redemption thereof identical to that of a share of Series A Preferred Shares (except for changes that do not materially and adversely affect the holders of the Series A Preferred Shares); or

(c) The authorization or creation of, or the increase in the authorized amount of, any shares of any class, or any security convertible into shares of any class, ranking prior to the Series A Preferred Shares in the distribution of assets on any liquidation, dissolution or winding up of the Trust or in the payment of dividends; provided, however, that no such vote of the holders of Series A Preferred Shares shall be required if, at or prior to the time when such amendment, alteration or repeal is to take effect, or when the issuance of any such shares or convertible securities is to be made, as the case may be, provision is made for the redemption of all Series A Preferred Shares at the time outstanding.

For purposes of the foregoing provisions of this Section 6.4.9, each share of Series A Preferred Shares shall have one vote per share, except that when shares of any other series of Preferred Shares shall have the right to vote with the Series A Preferred Shares as a single class on any matter, then the Series A Preferred Shares and such other series shall have with respect to such matters one vote per \$25.00 of stated liquidation preference. Except as otherwise required by applicable law or as set forth herein, the Series A Preferred Shares shall not have any relative, participating, optional or other special voting rights and powers, and the consent of the holders thereof shall not be required for the taking of any corporate action.

Section 6.4.10 Record Holders. The Trust and the Transfer Agent may deem and treat the record holder of any Series A Preferred Shares as the true and lawful owner thereof for all purposes, and neither the Trust nor the Transfer Agent shall be affected by any notice to the contrary.

Section 6.4.11 Sinking Fund. The Series A Preferred Shares shall not be entitled to the benefits of any retirement or sinking fund.

Section 6.5 Classified or Reclassified Shares. Prior to issuance of classified or reclassified Shares of any class or series, the Board of Trustees by resolution shall (a) designate that class or series to distinguish it from all other classes and series of Shares; (b) specify the number of Shares to be included in the class or series; (c) set, subject to the provisions of Article VII and subject to the express terms of any class or series of Shares outstanding at the time, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption for each class or series; and (d) cause the Trust to file articles supplementary with the State Department of Assessments and Taxation of Maryland (the "SDAT"). Any of the terms of any class or series of Shares set pursuant to clause (c) of this Section 6.5 may be made dependent upon facts ascertainable outside the Declaration of Trust (including the occurrence of any event, including a determination or action by the Trust or any other person or body) and may vary among holders thereof, provided that the manner in which such facts or variations shall operate upon the terms of such class or series of Shares is clearly and expressly set forth in the articles supplementary filed with the SDAT.

Section 6.6 Authorization by Board of Share Issuance. The Board of Trustees may authorize the issuance from time to time of Shares of any class or series, whether now or hereafter authorized, or securities or rights convertible into Shares of any class or series, whether now or hereafter authorized, for such consideration (whether in cash, property, past or future services, obligation for future payment or otherwise) as the Board of Trustees may deem advisable (or without consideration in the case of a Share split or Share dividend), subject to such restrictions or limitations, if any, as may be set forth in the Declaration of Trust or the Bylaws of the Trust.

Section 6.7 Dividends and Distributions. The Trust may pay any dividend or make any other distribution to the shareholders as authorized in the Declaration or by the Board of Trustees if, after giving effect to the dividend or distribution, the Trust would be able to pay its debts as they become due in the usual course of its business. The Board of Trustees may from time to time authorize the Trust to pay to shareholders such dividends or distributions in cash or other assets of the Trust or in securities of the Trust or from any other source as the Board of Trustees in its discretion shall determine. The Board of Trustees shall endeavor to authorize the Trust to pay such dividends and distributions as shall be necessary for the Trust to qualify as a real estate investment trust under the Code; however, shareholders shall have no right to any dividend or distribution unless and until authorized by the Board of Trustees and declared by the Trust. The exercise of the powers and rights of the Board of Trustees pursuant to this Section 6.7 shall be subject to the provisions of any class or series of Shares at the time outstanding. Notwithstanding any other provision in the Declaration of Trust, no determination shall be made by the Board of Trustees nor shall any transaction be entered into by the Trust which would cause any Shares or other beneficial interest in the Trust not to constitute “transferable shares” or “transferable certificates of beneficial interest” under Section 856(a)(2) of the Code or which would cause any distribution to constitute a preferential dividend as described in Section 562(c) of the Code.

Section 6.8 General Nature of Shares. All Shares shall be personal property entitling the shareholders only to those rights provided in the Declaration of Trust. The shareholders shall have no interest in the property of the Trust and shall have no right to compel any partition, division, dividend or distribution of the Trust or of the property of the Trust. The death of a shareholder shall not terminate the Trust. The Trust is entitled to treat as shareholders only those persons in whose names Shares are registered as holders of Shares on the beneficial interest ledger of the Trust.

Section 6.9 Fractional Shares. The Trust may, without the consent or approval of any shareholder, issue fractional Shares, eliminate a fraction of a Share by rounding up or down to a full Share, arrange for the disposition of a fraction of a Share by the person entitled to it, or pay cash for the fair value of a fraction of a Share.

Section 6.10 Declaration and Bylaws. All shareholders are subject to the provisions of the Declaration of Trust and the Bylaws of the Trust.

Section 6.11 Divisions and Combinations of Shares. Subject to an express provision to the contrary in the terms of any class or series of beneficial interest hereafter authorized, the Board of Trustees shall have the power to divide or combine the outstanding Shares of any class or series of beneficial interest, without a vote of shareholders, so long as the number of Shares combined into one Share in any such combination or series of combinations within any period of twelve months is not greater than five.

ARTICLE VII

RESTRICTION ON TRANSFER AND OWNERSHIP OF SHARES

Section 7.1 Definitions. For the purpose of this Article VII, the following terms shall have the following meanings:

Aggregate Share Ownership Limit. The term “Aggregate Share Ownership Limit” shall mean not more than 9.8 percent in value of the aggregate of the outstanding Equity Shares. The value of the outstanding Equity Shares shall be determined by the Board of Trustees in good faith, which determination shall be conclusive for all purposes hereof.

Beneficial Ownership. The term “Beneficial Ownership” shall mean ownership of Equity Shares by a Person, whether the interest in Equity Shares is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code. The terms “Beneficial Owner,” “Beneficially Owns” and “Beneficially Owned” shall have the correlative meanings.

Business Day. The term “Business Day” shall mean any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions in New York City are authorized or required by law, regulation or executive order to close.

Charitable Beneficiary. The term “Charitable Beneficiary” shall mean one or more beneficiaries of the Charitable Trust as determined pursuant to Section 7.3.6, provided that each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

Charitable Trust. The term “Charitable Trust” shall mean any trust provided for in Section 7.3.1.

Common Share Ownership Limit. The term “Common Share Ownership Limit” shall mean not more than 9.8 percent (in value or in number of shares, whichever is more restrictive) of the aggregate number of the outstanding Common Shares. The number and value of outstanding Common Shares shall be determined by the Board of Trustees in good faith, which determination shall be conclusive for all purposes hereof.

Constructive Ownership. The term “Constructive Ownership” shall mean ownership of Equity Shares by a Person, whether the interest in Equity Shares is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 318(a) of the Code, as modified by Section 856(d)(5) of the Code. The terms “Constructive Owner,” “Constructively Owns” and “Constructively Owned” shall have the correlative meanings.

Declaration of Trust. The term “Declaration of Trust” shall mean this Declaration of Trust as accepted for record by the SDAT, and any amendments thereto.

Equity Shares. The term “Equity Shares” shall mean Shares of all classes or series, including, without limitation, Common Shares and Preferred Shares.

Excepted Holder. The term “Excepted Holder” shall mean a shareholder of the Trust for whom an Excepted Holder Limit is created by this Article VII or by the Board of Trustees pursuant to Section 7.2.7.

Excepted Holder Limit. The term “Excepted Holder Limit” shall mean, provided that the affected Excepted Holder agrees to comply with the requirements established by the Board of Trustees pursuant to Section 7.2.7, and subject to adjustment pursuant to Section 7.2.8, the percentage limit established by the Board of Trustees pursuant to Section 7.2.7.

Initial Date. The term “Initial Date” shall mean the date upon which this Declaration of Trust containing this Article VII is accepted for record by the SDAT.

Market Price. The term “Market Price” on any date shall mean, with respect to any class or series of outstanding Equity Shares, the Closing Price for such Equity Shares on such date. The “Closing Price” on any date shall mean the last sale price for such Equity Shares, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such Equity Shares, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the NYSE or, if such Equity Shares are not listed or admitted to trading on the NYSE, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such Equity Shares are listed or admitted to trading or, if such Equity Shares are not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the National Association of Securities Dealers, Inc. Automated Quotation System or, if such system is no longer in use, the principal other automated quotation system that may then be in use or, if such Equity Shares are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such Equity Shares selected by the Board of Trustees or, in the event that no trading price is available for such Equity Shares, the fair market value of Equity Shares, as determined in good faith by the Board of Trustees, which determination shall be conclusive for all purposes hereof.

NYSE. The term “NYSE” shall mean the New York Stock Exchange.

Person. The term “Person” shall mean an individual, corporation, partnership, limited liability company, estate, trust (including a trust qualified under Sections 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company or other entity and also includes a group as that term is used for purposes of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended, and a group to which an Excepted Holder Limit applies.

Prohibited Owner. The term “Prohibited Owner” shall mean, with respect to any purported Transfer, any Person who, but for the provisions of Section 7.2.1, would Beneficially Own or Constructively Own Equity Shares, and if appropriate in the context, shall also mean any Person who would have been the record owner of Equity Shares that the Prohibited Owner would have so owned.

REIT. The term “REIT” shall mean a real estate investment trust within the meaning of Section 856 of the Code.

Restriction Termination Date. The term “Restriction Termination Date” shall mean the first day after the Initial Date on which the Board of Trustees determines that it is no longer in the best interests of the Trust to attempt to, or continue to, qualify as a REIT or that compliance with the restrictions and limitations on Beneficial Ownership, Constructive Ownership and Transfers of Equity Shares set forth herein is no longer required in order for the Trust to qualify as a REIT.

SDAT. The term “SDAT” shall mean the State Department of Assessments and Taxation of Maryland.

Transfer. The term “Transfer” shall mean any issuance, sale, transfer, gift, assignment, devise or other disposition, as well as any other event that causes any Person to acquire Beneficial Ownership or Constructive Ownership, or any agreement to take any such actions or cause any such events, of Equity Shares or the right to vote or receive dividends on Equity Shares, including (a) the granting or exercise of any option (or any disposition of any option), (b) any disposition of any securities or rights convertible into or exchangeable for Equity Shares or any interest in Equity Shares or any exercise of any such conversion or exchange right and (c) Transfers of interests in other entities that result in changes in Beneficial or Constructive Ownership of Equity Shares; in each case, whether voluntary or involuntary, whether owned of record, Constructively Owned or Beneficially Owned and whether by operation of law or otherwise. The terms “Transferring” and “Transferred” shall have the correlative meanings.

Trustee. The term “Trustee” shall mean the Person unaffiliated with the Trust and a Prohibited Owner, that is appointed by the Trust to serve as trustee of the Charitable Trust.

Section 7.2 Equity Shares.

Section 7.2.1 Ownership Limitations. During the period commencing on the Initial Date and prior to the Restriction Termination Date:

(a) Basic Restrictions.

- (i) (1) No Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own Equity Shares in excess of the Aggregate Share Ownership Limit, (2) no Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own Common Shares in excess of the Common Share Ownership Limit and (3) no Excepted Holder shall Beneficially Own or Constructively Own Equity Shares in excess of the Excepted Holder Limit for such Excepted Holder.
- (ii) No Person shall Beneficially or Constructively Own Equity Shares to the extent that such Beneficial or Constructive Ownership of Equity Shares would result in the Trust being “closely held” within the meaning of Section 856(h) of the Code (without regard to whether the ownership interest is held during the last half of a taxable year), or otherwise failing to qualify as a REIT (including, but not limited to, Beneficial or Constructive Ownership that would result in the Trust owning (actually or Constructively) an interest in a tenant that is described in Section 856(d)(2)(B) of the Code if the income derived by the Trust from such tenant would cause the Trust to fail to satisfy any of the gross income requirements of Section 856(c) of the Code).

(iii) Notwithstanding any other provisions contained herein (but subject to Section 7.4), any Transfer of Equity Shares (whether or not such Transfer is the result of a transaction entered into through the facilities of the NYSE or any other national securities exchange or automated inter-dealer quotation system) that, if effective, would result in Equity Shares being beneficially owned by less than 100 Persons (determined under the principles of Section 856(a)(5) of the Code) shall be void ab initio, and the intended transferee shall acquire no rights in such Equity Shares.

(b) Transfer in Trust. If any Transfer of Equity Shares (whether or not such Transfer is the result of a transaction entered into through the facilities of the NYSE or any other national securities exchange or automated inter-dealer quotation system) occurs which, if effective, would result in any Person Beneficially Owning or Constructively Owning Equity Shares in violation of Section 7.2.1(a)(i) or (ii),

(i) then that number of Equity Shares the Beneficial or Constructive Ownership of which otherwise would cause such Person to violate Section 7.2.1(a)(i) or (ii) (rounded to the nearest whole share) shall be automatically transferred to a Charitable Trust for the benefit of a Charitable Beneficiary, as described in Section 7.3, effective as of the close of business on the Business Day prior to the date of such Transfer, and such Person shall acquire no rights in such Equity Shares; or

(ii) if the transfer to the Charitable Trust described in clause (i) of this sentence would not be effective for any reason to prevent the violation of Section 7.2.1(a)(i) or (ii), then the Transfer of that number of Equity Shares that otherwise would cause any Person to violate Section 7.2.1(a)(i) or (ii) shall be void ab initio, and the intended transferee shall acquire no rights in such Equity Shares.

Section 7.2.2 Remedies for Breach. If the Board of Trustees or any duly authorized committee thereof shall at any time determine in good faith that a Transfer or other event has taken place that results in a violation of Section 7.2.1 or that a Person intends to acquire or has attempted to acquire Beneficial or Constructive Ownership of any Equity Shares in violation of Section 7.2.1 (whether or not such violation is intended), the Board of Trustees or a committee thereof shall take such action as it deems advisable to refuse to give effect to or to prevent such Transfer or other event, including, without limitation, causing the Trust to redeem Equity Shares, refusing to give effect to such Transfer on the books of the Trust or instituting proceedings to enjoin such Transfer or other event; provided, however, that any Transfers or attempted Transfers or other events in violation of Section 7.2.1 shall automatically result in the transfer to the Charitable Trust described above, and, where applicable, such Transfer (or other event) shall be void ab initio as provided above irrespective of any action (or non-action) by the Board of Trustees or a committee thereof.

Section 7.2.3 Notice of Restricted Transfer. Any Person who acquires or attempts or intends to acquire Beneficial Ownership or Constructive Ownership of Equity Shares that will or may violate Section 7.2.1(a), or any Person who would have owned Equity Shares that resulted in a transfer to the Charitable Trust pursuant to the provisions of Section 7.2.1(b), shall immediately give written notice to the Trust of such event, or in the case of such a proposed or attempted

transaction, give at least 15 days prior written notice, and shall provide to the Trust such other information as the Trust may request in order to determine the effect, if any, of such Transfer on the Trust's status as a REIT.

Section 7.2.4 Owners Required To Provide Information. From the Initial Date and prior to the Restriction Termination Date:

(a) every owner of more than five percent (or such lower percentage as required by the Code or the Treasury Regulations promulgated thereunder) of the outstanding Equity Shares, within 30 days after the end of each taxable year, shall give written notice to the Trust stating the name and address of such owner, the number of Equity Shares and other Equity Shares Beneficially Owned and a description of the manner in which such shares are held. Each such owner shall provide to the Trust such additional information as the Trust may request in order to determine the effect, if any, of such Beneficial Ownership on the Trust's status as a REIT and to ensure compliance with the Aggregate Share Ownership Limit.

(b) each Person who is a Beneficial or Constructive Owner of Equity Shares and each Person (including the shareholder of record) who is holding Equity Shares for a Beneficial or Constructive Owner shall provide to the Trust such information as the Trust may request, in good faith, in order to determine the Trust's status as a REIT and to comply with requirements of any taxing authority or governmental authority or to determine such compliance.

Section 7.2.5 Remedies Not Limited. Subject to Section 5.1 of the Declaration of Trust, nothing contained in this Section 7.2 shall limit the authority of the Board of Trustees to take such other action as it deems necessary or advisable to protect the Trust and the interests of its shareholders in preserving the Trust's status as a REIT.

Section 7.2.6 Ambiguity. In the case of an ambiguity in the application of any of the provisions of this Section 7.2, Section 7.3 or any definition contained in Section 7.1, the Board of Trustees shall have the power to determine the application of the provisions of this Section 7.2 or Section 7.3 with respect to any situation based on the facts known to it. In the event Section 7.2 or 7.3 requires an action by the Board of Trustees and the Declaration of Trust fails to provide specific guidance with respect to such action, the Board of Trustees shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of Sections 7.1, 7.2 or 7.3.

Section 7.2.7 Exceptions.

(a) Subject to Section 7.2.1(a)(ii), the Board of Trustees, in its sole discretion, may exempt a Person from the Aggregate Share Ownership Limit and the Common Share Ownership Limit, as the case may be, and may establish or increase an Excepted Holder Limit for such Person if:

(i) the Board of Trustees obtains such representations and undertakings from such Person as are reasonably necessary to ascertain that no individual's Beneficial or Constructive Ownership of such Equity Shares will violate Section 7.2.1(a)(ii);

(ii) such Person does not and represents that it will not own, actually or Constructively, an interest in a tenant of the Trust (or a tenant of any entity owned or controlled by the Trust) that would cause the Trust to own, actually or Constructively, more than a 9.8% interest (as set forth in Section 856(d)(2)(B) of the Code) in such tenant and the Board of Trustees obtains such representations and undertakings from such Person as are reasonably necessary to ascertain this fact (for this purpose, a tenant from whom the Trust (or an entity owned or controlled by the Trust) derives (and is expected to continue to derive) a sufficiently small amount of revenue such that, in the opinion of the Board of Trustees, rent from such tenant would not adversely affect the Trust's ability to qualify as a REIT, shall not be treated as a tenant of the Trust); and

(iii) such Person agrees that any violation or attempted violation of such representations or undertakings (or other action which is contrary to the restrictions contained in Sections 7.2.1 through 7.2.6) will result in such Equity Shares being automatically transferred to a Charitable Trust in accordance with Sections 7.2.1(b) and 7.3.

(b) Prior to granting any exception pursuant to Section 7.2.7(a), the Board of Trustees may require a ruling from the Internal Revenue Service, or an opinion of counsel, in either case in form and substance satisfactory to the Board of Trustees in its sole discretion, as it may deem necessary or advisable in order to determine or ensure the Trust's status as a REIT. Notwithstanding the receipt of any ruling or opinion, the Board of Trustees may impose such conditions or restrictions as it deems appropriate in connection with granting such exception.

(c) Subject to Section 7.2.1(a)(ii), an underwriter which participates in a public offering or a private placement of Equity Shares (or securities convertible into or exchangeable for Equity Shares) may Beneficially Own or Constructively Own Equity Shares (or securities convertible into or exchangeable for Equity Shares) in excess of the Aggregate Share Ownership Limit, the Common Share Ownership Limit or both such limits, but only to the extent necessary to facilitate such public offering or private placement.

(d) The Board of Trustees may only reduce the Excepted Holder Limit for an Excepted Holder: (1) with the written consent of such Excepted Holder at any time, or (2) pursuant to the terms and conditions of the agreements and undertakings entered into with such Excepted Holder in connection with the establishment of the Excepted Holder Limit for that Excepted Holder. No Excepted Holder Limit shall be reduced to a percentage that is less than the Common Share Ownership Limit.

Section 7.2.8 Increase in Aggregate Share Ownership and Common Share Ownership Limits. The Board of Trustees may from time to time increase the Common Share Ownership Limit and the Aggregate Share Ownership Limit.

Section 7.2.9 Legend. Each certificate for Equity Shares issued after the effective date of this Declaration as accepted for record by the SDAT shall bear substantially the following legend:

The shares represented by this certificate are subject to restrictions on Beneficial and Constructive Ownership and Transfer for the purpose of the Trust's maintenance of its status as a Real Estate Investment Trust (a "REIT") under the Internal Revenue Code of 1986, as amended (the "Code"). Subject to certain further restrictions and except as expressly provided in the

Trust's Declaration of Trust, (i) no Person may Beneficially or Constructively Own Common Shares of the Trust in excess of 9.8 percent (in value or number of shares) of the outstanding Common Shares of the Trust unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (ii) no Person may Beneficially or Constructively Own Equity Shares of the Trust in excess of 9.8 percent of the value of the total outstanding Equity Shares of the Trust, unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (iii) no Person may Beneficially or Constructively Own Equity Shares that would result in the Trust being "closely held" under Section 856(h) of the Code or otherwise cause the Trust to fail to qualify as a REIT; and (iv) no Person may Transfer Equity Shares if such Transfer would result in Equity Shares of the Trust being owned by fewer than 100 Persons. Any Person who Beneficially or Constructively Owns or attempts to Beneficially or Constructively Own Equity Shares which cause or will cause a Person to Beneficially or Constructively Own Equity Shares in excess or in violation of the above limitations must immediately notify the Trust. If any of the restrictions on transfer or ownership are violated, the Equity Shares represented hereby will be automatically transferred to a Trustee of a Charitable Trust for the benefit of one or more Charitable Beneficiaries. In addition, upon the occurrence of certain events, attempted Transfers in violation of the restrictions described above may be void ab initio. All capitalized terms in this legend have the meanings defined in the Trust's Declaration of Trust, as the same may be amended from time to time, a copy of which, including the restrictions on transfer and ownership, will be furnished to each holder of Equity Shares of the Trust on request and without charge.

Instead of the foregoing legend, the certificate may state that the Trust will furnish a full statement about certain restrictions on transferability to a shareholder on request and without charge.

Section 7.3 Transfer of Equity Shares in Trust.

Section 7.3.1 Ownership in Trust. Upon any purported Transfer or other event described in Section 7.2.1(b) that would result in a transfer of Equity Shares to a Charitable Trust, such Equity Shares shall be deemed to have been transferred to the Trustee as trustee of a Charitable Trust for the exclusive benefit of one or more Charitable Beneficiaries. Such transfer to the Trustee shall be deemed to be effective as of the close of business on the Business Day prior to the purported Transfer or other event that results in the transfer to the Charitable Trust pursuant to Section 7.2.1(b). The Trustee shall be appointed by the Trust and shall be a Person unaffiliated with the Trust and any Prohibited Owner. Each Charitable Beneficiary shall be designated by the Trust as provided in Section 7.3.6.

Section 7.3.2 Status of Shares Held by the Trustee. Equity Shares held by the Trustee shall be issued and outstanding Equity Shares of the Trust. The Prohibited Owner shall have no rights in the shares held by the Trustee. The Prohibited Owner shall not benefit economically from ownership of any shares held in trust by the Trustee, shall have no rights to dividends or other distributions and shall not possess any rights to vote or other rights attributable to the shares held in the Charitable Trust.

Section 7.3.3 Dividend and Voting Rights. The Trustee shall have all voting rights and rights to dividends or other distributions with respect to Equity Shares held in the Charitable Trust, which rights shall be exercised for the exclusive benefit of the Charitable Beneficiary. Any dividend or

other distribution paid prior to the discovery by the Trust that Equity Shares have been transferred to the Trustee shall be paid with respect to such Equity Shares to the Trustee upon demand and any dividend or other distribution authorized but unpaid shall be paid when due to the Trustee. Any dividends or distributions so paid over to the Trustee shall be held in trust for the Charitable Beneficiary. The Prohibited Owner shall have no voting rights with respect to shares held in the Charitable Trust and, subject to Maryland law, effective as of the date that Equity Shares have been transferred to the Trustee, the Trustee shall have the authority (at the Trustee's sole discretion) (i) to rescind as void any vote cast by a Prohibited Owner prior to the discovery by the Trust that Equity Shares have been transferred to the Trustee and (ii) to recast such vote in accordance with the desires of the Trustee acting for the benefit of the Charitable Beneficiary; provided, however, that if the Trust has already taken irreversible trust action, then the Trustee shall not have the authority to rescind and recast such vote. Notwithstanding the provisions of this Article VII, until the Trust has received notification that Equity Shares have been transferred into a Charitable Trust, the Trust shall be entitled to rely on its share transfer and other shareholder records for purposes of preparing lists of shareholders entitled to vote at meetings, determining the validity and authority of proxies and otherwise conducting votes of shareholders.

Section 7.3.4 Sale of Shares by Trustee. Within 20 days of receiving notice from the Trust that Equity Shares have been transferred to the Charitable Trust, the Trustee of the Charitable Trust shall sell the shares held in the Charitable Trust to a person, designated by the Trustee, whose ownership of the shares will not violate the ownership limitations set forth in Section 7.2.1(a). Upon such sale, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner and to the Charitable Beneficiary as provided in this Section 7.3.4. The Prohibited Owner shall receive the lesser of (1) the price paid by the Prohibited Owner for the shares or, if the Prohibited Owner did not give value for the shares in connection with the event causing the shares to be held in the Charitable Trust (e.g., in the case of a gift, devise or other such transaction), the Market Price of the shares on the day of the event causing the shares to be held in the Charitable Trust and (2) the price per share received by the Trustee from the sale or other disposition of the shares held in the Charitable Trust. Any net sales proceeds in excess of the amount payable to the Prohibited Owner shall be immediately paid to the Charitable Beneficiary. If, prior to the discovery by the Trust that Equity Shares have been transferred to the Trustee, such shares are sold by a Prohibited Owner, then (i) such shares shall be deemed to have been sold on behalf of the Charitable Trust and (ii) to the extent that the Prohibited Owner received an amount for such shares that exceeds the amount that such Prohibited Owner was entitled to receive pursuant to this Section 7.3.4, such excess shall be paid to the Trustee upon demand.

Section 7.3.5 Purchase Right in Shares Transferred to the Trustee. Equity Shares transferred to the Trustee shall be deemed to have been offered for sale to the Trust, or its designee, at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in such transfer to the Charitable Trust (or, in the case of a devise or gift, the Market Price at the time of such devise or gift) and (ii) the Market Price on the date the Trust, or its designee, accepts such offer. The Trust shall have the right to accept such offer until the Trustee has sold the shares held in the Charitable Trust pursuant to Section 7.3.4. Upon such a sale to the Trust, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner.

Section 7.3.6 Designation of Charitable Beneficiaries. By written notice to the Trustee, the Trust shall designate one or more nonprofit organizations to be the Charitable Beneficiary of the interest in the Charitable Trust such that (i) Equity Shares held in the Charitable Trust would not violate the restrictions set forth in Section 7.2.1(a) in the hands of such Charitable Beneficiary and (ii) each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

Section 7.4 NYSE Transactions. Nothing in this Article VII shall preclude the settlement of any transaction entered into through the facilities of the NYSE or any other national securities exchange or automated inter-dealer quotation system. The fact that the settlement of any transaction occurs shall not negate the effect of any other provision of this Article VII and any transferee in such a transaction shall be subject to all of the provisions and limitations set forth in this Article VII.

Section 7.5 Enforcement. The Trust is authorized specifically to seek equitable relief, including injunctive relief, to enforce the provisions of this Article VII.

Section 7.6 Non-Waiver. No delay or failure on the part of the Trust or the Board of Trustees in exercising any right hereunder shall operate as a waiver of any right of the Trust or the Board of Trustees, as the case may be, except to the extent specifically waived in writing.

ARTICLE VIII SHAREHOLDERS

Section 8.1 Meetings. There shall be an annual meeting of the shareholders, to be held on proper notice at such time (after the delivery of the annual report) and convenient location as shall be determined by or in the manner prescribed in the Bylaws, for the election of the Trustees, if required, and for the transaction of any other business within the powers of the Trust. Except as otherwise provided in the Declaration of Trust, special meetings of shareholders may be called in the manner provided in the Bylaws. If there are no Trustees, the officers of the Trust shall promptly call a special meeting of the shareholders entitled to vote for the election of successor Trustees. Any meeting may be adjourned and reconvened as the Trustees determine or as provided in the Bylaws.

Section 8.2 Voting Rights. Subject to the provisions of any class or series of Shares then outstanding, the shareholders shall be entitled to vote only on the following matters: (a) election of Trustees as provided in Section 5.2 and the removal of Trustees as provided in Section 5.3; (b) amendment of the Declaration of Trust as provided in Article X; (c) termination of the Trust as provided in Section 12.2; (d) to the extent required by Title 8, merger or consolidation of the Trust, or the sale or disposition of substantially all of the property of the Trust, as provided in Article XI; and (e) such other matters with respect to which the Board of Trustees has adopted a resolution declaring that a proposed action is advisable and directing that the matter be submitted to the shareholders for approval or ratification. Except with respect to the foregoing matters, no action taken by the shareholders at any meeting shall in any way bind the Board of Trustees.

Section 8.3 Preemptive and Appraisal Rights. Except as may be provided by the Board of Trustees in setting the terms of classified or reclassified Shares pursuant to Section 6.5, or as may otherwise be provided by contract, no holder of Shares shall, as such holder, (a) have any preemptive right to purchase or subscribe for any additional Shares of the Trust or any other security of the Trust which it may issue or sell or (b), except as expressly required by Title 8, have any right to require the Trust to pay him the fair value of his Shares in an appraisal or similar proceeding.

Section 8.4 Extraordinary Actions. Except as specifically provided in Section 5.3 (relating to removal of Trustees) and in Section 10.3, notwithstanding any provision of law permitting or requiring any action to be taken or authorized by the affirmative vote of the holders of a greater number of votes, any such action shall be effective and valid if taken or approved by the affirmative vote of holders of Shares entitled to cast a majority of all the votes entitled to be cast on the matter.

Section 8.5 Board Approval. The submission of any action to the shareholders for their consideration shall first be approved by the Board of Trustees.

Section 8.6 Action By Shareholders without a Meeting. Any action by Shareholders may be taken without a meeting, if a majority of Shares entitled to vote on the matter (or such larger proportion of Shares as shall be required to take such action) consent to the action in writing and the written consents are filed with the records of the meetings of Shareholders.

ARTICLE IX

LIABILITY LIMITATION, INDEMNIFICATION AND TRANSACTIONS WITH THE TRUST

Section 9.1 Limitation of Shareholder Liability. No shareholder shall be liable for any debt, claim, demand, judgment or obligation of any kind of, against or with respect to the Trust by reason of his being a shareholder, nor shall any shareholder be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the property or the affairs of the Trust by reason of his being a shareholder.

Section 9.2 Limitation of Trustee and Officer Liability. To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of trustees and officers of a real estate investment trust, no Trustee or officer of the Trust shall be liable to the Trust or to any shareholder for money damages. Neither the amendment nor repeal of this Section 9.2, nor the adoption or amendment of any other provision of the Declaration of Trust inconsistent with this Section 9.2, shall apply to or affect in any respect the applicability of the preceding sentence with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption. In the absence of any Maryland statute limiting the liability of trustees and officers of a Maryland real estate investment trust for money damages in a suit by or on behalf of the Trust or by any shareholder, no Trustee or officer of the Trust shall be liable to the Trust or to any shareholder for money damages except to the extent that (a) the Trustee or officer actually received an improper benefit or profit in money, property or services, for the amount of the benefit or profit in money, property or services actually received; or (b) a judgment or other final adjudication adverse to the Trustee or officer is entered in a proceeding based on a finding in the proceeding that the Trustee's or officer's action or failure to act was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding.

Section 9.3 Indemnification. The Trust shall have the power, to the maximum extent permitted by Maryland law in effect from time to time, to obligate itself to indemnify, and to pay or reimburse reasonable expenses in advance of final disposition of a proceeding to, (a) any individual who is a present or former shareholder, Trustee or officer of the Trust or (b) any individual who, while a Trustee of the Trust and at the request of the Trust, serves or has served as a director, officer, partner, trustee, employee or agent of another real estate investment trust, corporation, partnership, joint venture, trust, employee benefit plan or any other enterprise from and against any claim or liability to which such person may become subject or which such person may incur by reason of such status. The Trust shall have the power, with the approval of its Board of Trustees, to provide such indemnification and advancement of expenses to a person who served a predecessor of the Trust in any of the capacities described in (a) or (b) above and to any employee or agent of the Trust or a predecessor of the Trust.

Section 9.4 Transactions Between the Trust and its Trustees, Officers, Employees and Agents. Subject to any express restrictions in the Declaration of Trust or adopted by the Trustees in the Bylaws or by resolution, the Trust may enter into any contract or transaction of any kind with any person, including any Trustee, officer, employee or agent of the Trust or any person affiliated with a Trustee, officer, employee or agent of the Trust, whether or not any of them has a financial interest in such transaction.

ARTICLE X

AMENDMENTS

Section 10.1 General. The Trust reserves the right from time to time to make any amendment to the Declaration of Trust, now or hereafter authorized by law, including any amendment altering the terms or contract rights, as expressly set forth in the Declaration of Trust, of any Shares. All rights and powers conferred by the Declaration of Trust on shareholders, Trustees and officers are granted subject to this reservation. An amendment to the Declaration of Trust (a) shall be signed and acknowledged by at least a majority of the Trustees, or an officer duly authorized by at least a majority of the Trustees, (b) shall be filed for record as provided in Section 13.5 and (c) shall become effective as of the later of the time the SDAT accepts the amendment for record or the time established in the amendment, not to exceed 30 days after the amendment is accepted for record. All references to the Declaration of Trust shall include all amendments thereto.

Section 10.2 By Trustees. The Trustees may amend the Declaration of Trust from time to time, in the manner provided by Title 8, without any action by the shareholders, to qualify as a real estate investment trust under the Code or under Title 8 and as otherwise provided in the Declaration of Trust.

Section 10.3 By Shareholders.

(a) Except as otherwise provided in the Declaration of Trust and in subsection (b) of this Section 10.3, any amendment to the Declaration of Trust shall be valid only if approved by the affirmative vote of two-thirds of all votes entitled to be cast on the matter.

(b) Any amendment to the Declaration of Trust which has been unanimously approved by the Board of Trustees shall require only the affirmative vote of a majority of all votes entitled to be cast on the matter.

ARTICLE XI

MERGER, CONSOLIDATION OR SALE OF TRUST PROPERTY

Subject to the provisions of any class or series of Shares at the time outstanding, the Trust may (a) merge the Trust with or into another entity or merge another entity into the Trust, (b) consolidate the Trust with one or more other entities into a new entity or (c) sell, lease, exchange or otherwise transfer all or substantially all of the property of the Trust. Any such action must be approved by the Board of Trustees and, after notice to all shareholders entitled to vote on the matter, by the affirmative vote of two-thirds of all the votes entitled to be cast on the matter.

ARTICLE XII

DURATION AND TERMINATION OF TRUST

Section 12.1 Duration. The Trust shall continue perpetually unless terminated pursuant to Section 12.2 or pursuant to any applicable provision of Title 8.

Section 12.2 Termination.

(a) Subject to the provisions of any class or series of Shares at the time outstanding, after approval by a majority of the entire Board of Trustees, the Trust may be terminated at any meeting of shareholders, by the affirmative vote of two-thirds of all the votes entitled to be cast on the matter. Upon the termination of the Trust:

(i) The Trust shall carry on no business except for the purpose of winding up its affairs.

(ii) The Trustees shall proceed to wind up the affairs of the Trust and all of the powers of the Trustees under the Declaration of Trust shall continue, including the powers to fulfill or discharge the Trust's contracts, collect its assets, sell, convey, assign, exchange, transfer or otherwise dispose of all or any part of the remaining property of the Trust to one or more persons at public or private sale for consideration which may consist in whole or in part of cash, securities or other property of any kind, discharge or pay its liabilities and do all other acts appropriate to liquidate its business.

(iii) After paying or adequately providing for the payment of all liabilities, and upon receipt of such releases, indemnities and agreements as they deem necessary for their protection, the Trust may distribute the remaining property of the Trust among the shareholders so that after payment in full or the setting apart for payment of such preferential amounts, if any, to which the holders of any Shares at the time outstanding shall be entitled, the remaining property of the Trust shall, subject to any participating or similar rights of Shares at the time outstanding, be distributed ratably among the holders of Common Shares at the time outstanding.

(b) After termination of the Trust, the liquidation of its business and the distribution to the shareholders as herein provided, a majority of the Trustees shall execute and file with the Trust's records a document certifying that the Trust has been duly terminated, and the Trustees shall be discharged from all liabilities and duties hereunder, and the rights and interests of all shareholders shall cease.

ARTICLE XIII

MISCELLANEOUS

Section 13.1 Governing Law. The Declaration of Trust is executed by the undersigned Trustees and delivered in the State of Maryland with reference to the laws thereof, and the rights of all parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State of Maryland without regard to conflicts of laws provisions thereof.

Section 13.2 Reliance by Third Parties. Any certificate shall be final and conclusive as to any person dealing with the Trust if executed by the Secretary or an Assistant Secretary of the Trust, or any executive officer of the Trust, or a Trustee, and if certifying to: (a) the number or identity of Trustees, officers of the Trust or shareholders; (b) the due authorization of the execution of any document; (c) the action or vote taken, and the existence of a quorum, at a meeting of the Board of Trustees or shareholders; (d) a copy of the Declaration of Trust or of the Bylaws as a true and complete copy as then in force; (e) an amendment to the Declaration of Trust; (f) the termination of the Trust; or (g) the existence of any fact relating to the affairs of the Trust. No purchaser, lender, transfer agent or other person shall be bound to make any inquiry concerning the validity of any transaction purporting to be made by the Trust on its behalf or by any officer, employee or agent of the Trust.

Section 13.3 Severability.

(a) The provisions of the Declaration of Trust are severable, and if the Board of Trustees shall determine, with the advice of counsel, that any one or more of such provisions (the "Conflicting Provisions") are in conflict with the Code, Title 8 or other applicable federal or state laws, the Conflicting Provisions, to the extent of the conflict, shall be deemed never to have constituted a part of the Declaration of Trust, even without any amendment of the Declaration of Trust pursuant to Article X and without affecting or impairing any of the remaining provisions of the Declaration of Trust or rendering invalid or improper any action taken or omitted prior to such determination. No Trustee shall be liable for making or failing to make such a determination. In the event of any such determination by the Board of Trustees, the Board shall amend the Declaration of Trust in the manner provided in Section 10.2.

(b) If any provision of the Declaration of Trust shall be held invalid or unenforceable in any jurisdiction, such holding shall apply only to the extent of any such invalidity or unenforceability and shall not in any manner affect, impair or render invalid or unenforceable such provision in any other jurisdiction or any other provision of the Declaration of Trust in any jurisdiction.

Section 13.4 Construction. In the Declaration of Trust, unless the context otherwise requires, words used in the singular or in the plural include both the plural and singular and words denoting any gender include all genders. The title and headings of different parts are inserted for convenience and shall not affect the meaning, construction or effect of the Declaration of Trust. In defining or interpreting the powers and duties of the Trust and its Trustees and officers, reference may be made by the Trustees or officers, to the extent appropriate and not inconsistent with the Code or Title 8, to Titles 1 through 3 of the Corporations and Associations Article of the Annotated Code of Maryland. In furtherance and not in limitation of the foregoing, in accordance with the provisions of Title 3, Subtitles 6 and 7, of the Corporations and Associations Article of the Annotated Code of Maryland, the Trust shall be included within the definition of “corporation” for purposes of such provisions.

Section 13.5 Recordation. The Trust was formerly governed by the laws of the District of Columbia pursuant to a declaration of trust first made May 25, 1962, filed in the office of, and recorded by, the Recorder of Deeds, Washington, D.C., as subsequently amended. This Declaration of Trust has been filed with and accepted for record by the SDAT whereupon the Trust, as formerly existing as a common law business trust under the laws of the District of Columbia, shall cease to be governed by the laws of the District of Columbia and shall thereupon be subject to Title 8. Any amendment hereto shall be filed with and accepted for record with the SDAT and may also be filed or recorded in such other places as the Trustees deem appropriate, but failure to file for record this Declaration of Trust or any amendment hereto in any office other than the office of the SDAT shall not affect or impair the validity or effectiveness of the Declaration of Trust or any amendment hereto. A restated declaration of trust shall, upon filing, be conclusive evidence of all amendments contained therein and may thereafter be referred to in lieu of the original Declaration of Trust and the various amendments thereto.

Section 13.6 Shares, Share Certificates and Rights. All issued and outstanding Common Shares of beneficial interest, no par value, of the Trust, as existing as a common law business trust under the laws of the District of Columbia immediately prior to the acceptance for record of this Declaration of Trust by the SDAT, shall upon the acceptance for record of this Declaration of Trust by the SDAT, without further action, be reclassified and continue to exist as Common Shares (as herein defined) of the Trust as existing under Title 8 and the laws of Maryland; and all issued and outstanding Series A Cumulative Redeemable Preferred Shares of beneficial interest, no par value, of the Trust, as existing as a common law business trust under the laws of the District of Columbia immediately prior to the acceptance for record of this Declaration of Trust by the SDAT, shall upon acceptance for record of this Declaration of Trust by the SDAT, and without further action, be reclassified and continue to exist as Series A Preferred Shares (as herein defined) of the Trust as existing under Title 8 and the laws of the State of Maryland. Certificates for Common Shares of beneficial interest, and certificates for Series A Cumulative Redeemable Preferred Shares of beneficial interest, respectively, each no par value, of the Trust as existing as a common law business trust under the laws of the District of Columbia immediately prior to the acceptance for record of this Declaration of Trust by the SDAT, shall, upon acceptance for record of this Declaration of Trust by the SDAT, and thereafter, represent Common Shares and Series A Preferred Shares of the Trust as existing under Title 8 and the laws of the State of Maryland. All options, rights, warrants to purchase or subscribe for Common Shares of beneficial interest, no par value, of the Trust, as existing as a common law business trust under the laws of the District of Columbia immediately prior to the filing of this Declaration of Trust with the SDAT, shall upon acceptance for record of this Declaration of Trust by the

SDAT, without any further action, entitle the holders thereof to purchase or subscribe for a like number of Common Shares of the Trust as existing under Title 8 and the laws of the State of Maryland, on the same terms.

Section 13.7 Unsolicited Takeovers. The Trust shall not elect to be subject to any provision of Subtitle 8 (“Corporations and Real Estate Investment Trusts — Unsolicited Takeovers”) of Title 3 of the Corporations and Associations Article of the Annotated Code of Maryland.

This Declaration of Trust is executed by the Trustees and delivered in the State of Maryland with reference to the laws thereof, and the rights of all parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State of Maryland without regard to conflicts of laws provisions thereof.

IN WITNESS WHEREOF, this Declaration of Trust has been executed on this 5th day of May, 1999 by the undersigned Trustees, who acknowledge that this document is their act, that to the best of their knowledge, information, and belief, the matters and facts set forth herein are true in all material respects and that this statement is made under the penalties for perjury.

Steven J. Guttman

A. Cornet De Ways Ruart

Mark S. Ordan

Walter F. Loeb

Kenneth D. Brody

Dennis L. Berman

Kristin Gamble

**ARTICLES OF AMENDMENT OF
DECLARATION OF TRUST OF
FEDERAL REALTY INVESTMENT TRUST**

The undersigned, having been authorized by the Board of Trustees (the "Board") of Federal Realty Investment Trust, a Maryland real estate investment trust (the "Trust"), does hereby certify pursuant to the provisions of Article X of the Declaration of Trust of the Trust (the "Declaration of Trust") filed with the Maryland State Department of Assessments and Taxation on May 21, 1999, and in accordance with the applicable provisions of Maryland law that:

A. The Board has adopted resolutions to amend the Declaration of Trust as hereinafter set forth and has declared that such amendment is advisable.

B. Pursuant to Section 10.3(b) of the Declaration of Trust, the amendment to the Declaration of Trust set forth below shall be approved by the shareholders of the Trust by the affirmative vote of at least a majority of all the votes entitled to be cast on the matter.

C. The amendment has been approved by the shareholders of the Trust by the affirmative vote of at least a majority of the shareholders entitled to notice of, and to vote at, the Annual Meeting of the shareholders of the Trust held on May 5, 2004.

Therefore, the Declaration of Trust is hereby amended as follows.

1. Section 5.2 is hereby amended by deleting the proviso at the end of the first sentence thereof and replacing it with the following: "provided, however, that the total number of Trustees shall be at least three (3) and not more than ten (10)."

2. Section 5.3 is hereby amended by deleting the second sentence in its entirety and inserting in its place, as the second sentence thereof, the following: Subject to the rights of holders of one or more classes or series of Preferred Shares to elect or remove one or more Trustees, a Trustee may be removed at any time, (i) with or without cause, at any meeting of the shareholders called for the purpose, by the affirmative vote of the holders of not less than two-thirds of the Shares then outstanding and entitled to vote thereon, or (ii) with cause, by the vote of all the other Trustees.

IN WITNESS WHEREOF, the Trust has caused these Articles of Amendment to be signed and executed in its corporate name by Donald C. Wood, its President and Chief Executive Officer, attested by Dawn M. Becker, its Secretary, and its corporate seal to be hereunto affixed on this 6th day of May, 2004.

ATTEST:

FEDERAL REALTY INVESTMENT TRUST, a Maryland real estate investment trust

By: _____
Dawn M. Becker
Senior Vice President – General Counsel and Secretary

By: _____
Donald C. Wood
President and Chief Executive Officer

[Corporate Seal]

I, Donald C. Wood, the President and Chief Executive Officer of the Trust, acknowledge: (a) that I have been authorized by the Board of Trustees of the Trust to file these Articles of Amendment with the Maryland State Department of Assessments and Taxation; (b) that these Articles of Amendment are the act of the Trust; and (c) that, as to all matters or facts required to be verified under oath, these matters and facts are, to the best of my knowledge, information and belief, true in all material respects and that this statement is made under the penalties of perjury.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand as of the 6th day of May, 2004.

FEDERAL REALTY INVESTMENT TRUST

By: _____
Donald C. Wood
President and Chief Executive Officer

**CERTIFICATE OF CORRECTION
OF
ARTICLES OF AMENDMENT OF
DECLARATION OF TRUST OF
FEDERAL REALTY INVESTMENT TRUST**

The undersigned, having been authorized by the Board of Trustees (the "Board") of Federal Realty Investment Trust, a Maryland real estate investment trust (the "Trust"), does hereby certify pursuant to the provisions of Article X of the Declaration of Trust of the Trust (the "Declaration of Trust") filed with the Maryland State Department of Assessments and Taxation on May 21, 1999, and in accordance with the applicable provisions of Maryland law that:

A. Articles of Amendment of Declaration of Trust of Federal Realty Investment Trust (the "Articles of Amendment") were filed with the Maryland State Department of Assessments and Taxation on May 7, 2004.

B. Paragraph 1 of the Articles of Amendment as filed on May 7, 2004 amended Section 5.2 of the Declaration of Trust by deleting the proviso at the end of the first sentence thereof and replacing it with the following: "provided, however, that the total number of Trustees shall be at least three (3) and not more than ten (10)."

C. Paragraph 1 of the Articles of Amendment as filed on May 7, 2004 contained a typographical error.

Therefore, the Articles of Amendment are hereby corrected as follows.

1. Section 5.2 of the Declaration of Trust is hereby amended by deleting the proviso at the end of the first sentence thereof and replacing it with the following: "provided, however, that the total number of Trustees shall be at least five (5) and not more than ten (10)."

IN WITNESS WHEREOF, the Trust has caused this Certificate of Correction of the Articles of Amendment to be signed and executed in its corporate name by Donald C. Wood, its President and Chief Executive Officer, attested by Dawn M. Becker, its Secretary, and its corporate seal to be hereunto affixed on this 17th day of June, 2004.

ATTEST:

FEDERAL REALTY INVESTMENT TRUST, a Maryland real estate investment trust

By: _____

By: _____

Dawn M. Becker
Senior Vice President – General Counsel and Secretary

Donald C. Wood
President and Chief Executive Officer

[Corporate Seal]

I, Donald C. Wood, the President and Chief Executive Officer of the Trust, acknowledge: (a) that I have been authorized by the Board of Trustees of the Trust to file this Certificate of Correction of Articles of Amendment with the Maryland State Department of Assessments and Taxation; (b) that this Certificate of Correction of Articles of Amendment are the act of the Trust; and (c) that, as to all matters or facts required to be verified under oath, these matters and facts are, to the best of my knowledge, information and belief, true in all material respects and that this statement is made under the penalties of perjury.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand as of the 17th day of June, 2004.

FEDERAL REALTY INVESTMENT TRUST

By: _____

Donald C. Wood
President and Chief Executive Officer

**ARTICLES OF AMENDMENT OF
DECLARATION OF TRUST OF
FEDERAL REALTY INVESTMENT TRUST**

The undersigned, having been authorized by the Board of Trustees (the "Board") of Federal Realty Investment Trust, a Maryland real estate investment trust (the "Trust"), does hereby certify pursuant to the provisions of Article X of the Declaration of Trust of the Trust, as amended (the "Declaration of Trust") filed with the Maryland State Department of Assessments and Taxation on May 21, 1999, and in accordance with the applicable provisions of Maryland law that:

A. The Board has unanimously adopted resolutions to amend the Declaration of Trust as hereinafter set forth and has declared that such amendment is advisable.

B. Pursuant to Section 10.3(b) of the Declaration of Trust, the amendment to the Declaration of Trust set forth below shall be approved by the shareholders of the Trust by the affirmative vote of at least a majority of all the votes entitled to be cast on the matter.

C. The amendment has been approved by the shareholders of the Trust by the affirmative vote of at least a majority of the shareholders entitled to notice of, and to vote at, the Annual Meeting of the shareholders of the Trust held on May 6, 2009.

Therefore, the Declaration of Trust is hereby amended as follows:

1. By deleting Section 5.2 in its entirety and inserting in its place, the following:

Section 5.2 Number and Classification. Upon acceptance for record of this Declaration of Trust, the number of Trustees (hereinafter the "Trustees") is seven, which number may be increased or decreased by the Board of Trustees; provided, however, that the total number of Trustees shall be at least five (5) and not more than ten (10). Except for Trustees elected solely by holders of one or more series of Preferred Shares and subject to the phasing-in process described below, the Trustees shall be elected at every annual meeting of shareholders beginning with the annual meeting of shareholders in 2010 in the manner provided in the Bylaws or, in order to fill any vacancy on the Board of Trustees, in the manner provided in the Bylaws.

Subject to the rights of holders of one or more classes or series of Preferred Shares then outstanding, any vacancy on the Board of Trustees (including a vacancy created by an increase in the number of Trustees) may be filled by a majority of the remaining Trustees or, if the remaining Trustees fail to act or there is no remaining Trustee, by the vote of holders of at least a majority of the Common Shares entitled to vote thereon and present in person or by proxy at any meeting of the shareholders called for that purpose. It shall not be necessary to list in the Declaration of Trust the names and addresses of any Trustees hereinafter elected.

The class of Trustees whose current term expires at the annual meeting of shareholders in 2010 shall hold office until that term expires and the successors to that class of Trustees shall be elected for a one year term to hold office until the 2011 annual meeting of shareholders and until their successors are duly elected and qualify. The class of Trustees whose current term expires at the annual meeting of shareholders in 2011 shall hold office until that term expires and the successors to that class of Trustees, together with Trustees elected at the 2010 annual meeting of shareholders, shall be elected for a one year term to hold office until the 2012 annual meeting of shareholders and until their successors are duly elected and qualify. The class of Trustees elected

at the annual meeting of shareholders in 2009 whose term expires at the annual meeting of shareholders in 2012 shall hold office until that term expires and the successors to that class of Trustees, together with all other Trustees, shall be elected for a one year term to hold office until the next annual meeting of shareholders and until their successors are duly elected and qualify beginning with the annual meeting of shareholders in 2012.

IN WITNESS WHEREOF, the Trust has caused these Articles of Amendment to be signed and executed in its corporate name by Donald C. Wood, its President and Chief Executive Officer, attested by Dawn M. Becker, its Secretary, and its corporate seal to be hereunto affixed on this 6th day of May, 2009.

ATTEST:

FEDERAL REALTY INVESTMENT TRUST, a Maryland real estate investment trust

By: _____

Dawn M. Becker
Executive Vice President – General
Counsel and Secretary

By: _____

Donald C. Wood
President and Chief Executive
Officer

[Corporate Seal]

I, Donald C. Wood, the President and Chief Executive Officer of the Trust, acknowledge: (a) that I have been authorized by the Board of Trustees of the Trust to file these Articles of Amendment with the Maryland State Department of Assessments and Taxation; (b) that these Articles of Amendment are the act of the Trust; and (c) that, as to all matters or facts required to be verified under oath, these matters and facts are, to the best of my knowledge, information and belief, true in all material respects and that this statement is made under the penalties of perjury.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand as of the 6th day of May, 2009.

FEDERAL REALTY INVESTMENT TRUST

By: _____

Donald C. Wood
President and Chief Executive Officer

Bylaws



*Federal Realty Investment Trust
Amended and Restated Bylaws
(February 12, 2003)*

**ARTICLE I
OFFICES**

Section 1. **PRINCIPAL OFFICE.** The principal office of the Trust shall be located at such place or places as the Board of Trustees may designate.

Section 2. **ADDITIONAL OFFICES.** The Trust may have additional offices at such places as the Board of Trustees may from time to time determine or the business of the Trust may require.

**ARTICLE II
MEETINGS OF SHAREHOLDERS**

Section 1. **PLACE.** All meetings of shareholders shall be held at the principal executive office of the Trust or at such other place within the United States as shall be stated in the notice of the meeting.

Section 2. **ANNUAL MEETING.** An annual meeting of the shareholders for the election of Trustees and the transaction of any business within the powers of the Trust shall be held during the month of May of each year, after the delivery of the annual report referred to in Section 12 of this Article II, at a convenient location and on proper notice, on a date and at the time set by the Trustees, beginning with the year 1999. Failure to hold an annual meeting does not invalidate the Trust's existence or affect any otherwise valid acts of the Trust.

Section 3. **SPECIAL MEETINGS.** The Chairman of the Board, the Chief Executive Officer, the President or one-third of the Trustees may call special meetings of the shareholders. Special meetings of shareholders shall also be called by the Secretary upon the written request of the holders of shares entitled to cast not less than a twenty-five percent of all the votes entitled to be cast at such meeting. Such request shall state the purpose of such meeting and the matters proposed to be acted on at such meeting. The Secretary shall inform such shareholders of the reasonably estimated cost of preparing and mailing notice of the meeting and, upon payment by such shareholders to the Trust of such costs, the Secretary shall give notice to each shareholder entitled to notice of the meeting. Unless requested by shareholders entitled to cast a majority of all the votes entitled to be cast at such meeting, a special meeting need not be called to consider any matter which is substantially the same as a matter voted on at any meeting of the shareholders held during the preceding twelve months.

Section 4. **NOTICE.** Not less than ten nor more than 90 days before each meeting of shareholders, the Secretary shall give to each shareholder entitled to vote at such meeting and to each shareholder not entitled to vote who is entitled to notice of the meeting written or printed notice stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, either by mail or by presenting it to such shareholder personally or by leaving it at his residence or usual place of business. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the shareholder at his post office address as it appears on the records of the Trust, with postage thereon prepaid.

Section 5. **SCOPE OF NOTICE.** Any business of the Trust may be transacted at an annual meeting of shareholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of shareholders except as specifically designated in the notice.

Section 6. **ORGANIZATION.** The Chairman of the Board shall preside over every meeting of the shareholders. If there is no Chairman or the Chairman is not present at any meeting of the shareholders,

the Chief Executive Officer shall preside. In the case of a vacancy in office or an absence of both the Chairman and the Chief Executive Officer, one of the following officers present shall conduct the meeting in the order stated: the President, the Vice Presidents (as defined in Article V, Section 8) in their order of rank and seniority, or a Chairman chosen by the shareholders entitled to cast a majority of the votes which all shareholders present in person or by proxy are entitled to cast, shall act as Chairman. The Secretary, or, in his absence, an Assistant Secretary, or in the absence of both the Secretary and Assistant Secretaries, a person appointed by the Chief Executive Officer, shall act as Secretary of the meeting.

Section 7. QUORUM. At any meeting of shareholders, the presence in person or by proxy of shareholders entitled to cast a majority of all the votes entitled to be cast at such meeting shall constitute a quorum; but this section shall not affect any requirement under any statute or the Declaration of Trust for the vote necessary for the adoption of any measure. The shareholders entitled to vote at such meeting, present in person or by proxy, shall have the power to adjourn the meeting from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 8. VOTING. A plurality of all the votes cast at a meeting of shareholders duly called and at which a quorum is present shall be sufficient to elect a Trustee; provided, however, that if any Trustee does not receive a majority of all the votes cast at any meeting where the number of nominees is the same as the number of Trustees to be elected, the Trustee shall tender his or her resignation to the Chair of the Nominating and Corporate Governance Committee within five (5) business days after certification of the vote. The Nominating and Corporate Governance Committee (or if votes were withheld from a majority of the members of such committee, then a committee appointed by and from among disinterested, independent directors) will promptly consider the resignation and make a recommendation to the Board of Trustees whether to accept or reject the tendered resignation. The Trustee who tenders his or her resignation will not participate in the recommendation of the Nominating and Corporate Governance Committee or the decision of the Board.

In deciding whether to accept or reject a resignation that has been tendered, the Nominating and Corporate Governance Committee and the Board will consider such factors as they deem appropriate and relevant which may include, among others: (a) the stated reasons why votes were withheld from the Trustee and whether those reasons can be cured; (b) the Trustee's length of service, qualifications and contributions as a Trustee; (c) listing requirements of the New York Stock Exchange, rules and regulations of the Securities and Exchange Commission and other applicable rules and regulations; (d) our corporate governance guidelines; and (e) such other factors as the Nominating and Corporate Governance Committee or the Board deems appropriate. Any rejection of a resignation may (but does not have to) be conditioned on curing the underlying reason for the withheld votes.

The Board will take action on any resignation no later than sixty (60) days after the certification of the vote. The action taken by the Board with respect to any resignation will be disclosed in a Form 8-K filed with the Securities and Exchange Commission within four (4) business days after the Board's decision and will include a full explanation of the process by which the Board reached its decision and the reason for its decision. If a Trustee's resignation is accepted by the Board of Trustees, then the Board of Trustees may fill the resulting vacancy pursuant to the provision of Section 10 of Article III of these Bylaws. For purposes of this Section, a majority of the votes cast means that the number of shares voted "for" a Trustee must exceed 50% of the votes cast with respect to that Trustee. Each share may be voted for as many individuals as there are Trustees to be elected and for whose election the share is entitled to be voted.

A majority of the votes cast at a meeting of shareholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required herein or by statute or by the Declaration of Trust. Unless otherwise provided in the Declaration of Trust, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders.

Section 9. PROXIES. A shareholder may cast the votes entitled to be cast by the shares owned of record by him either in person or by proxy executed by the shareholder or by his duly authorized agent in any manner allowed by law. Such proxy shall be filed with the Secretary of the Trust before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Section 10. VOTING OF SHARES BY CERTAIN HOLDERS. Shares of the Trust registered in the name of a corporation, partnership, limited liability company, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, a general partner, a manager, a managing member or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such shares pursuant to a bylaw or a resolution of the governing board of such corporation or other entity or agreement of the partners of the partnership or agreement of the members of the limited liability company presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such shares. Any trustee or other fiduciary may vote shares registered in his name as such fiduciary, either in person or by proxy.

Shares of the Trust directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Trustees may adopt by resolution a procedure by which a shareholder may certify in writing to the Trust that any shares registered in the name of the shareholder are held for the account of a specified person other than the shareholder. The resolution shall set forth the class of shareholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date or closing of the share transfer books, the time after the record date or closing of the share transfer books within which the certification must be received by the Trust; and any other provisions with respect to the procedure which the Trustees consider necessary or desirable. On receipt of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the shareholder of record of the specified shares in place of the shareholder who makes the certification.

Notwithstanding any other provision contained herein or in the Declaration of Trust or these Bylaws, Title 3, Subtitle 7 of the Corporations and Associations Article of the Annotated Code of Maryland (or any successor statute) shall not apply to any acquisition by any person of shares of beneficial interest of the Trust. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition; provided, however, that this section may be repealed only with the approval of at least a majority of the shares then outstanding and entitled to vote on the matter.

Section 11. INSPECTORS. At any meeting of shareholders, the chairman of the meeting may appoint one or more persons as inspectors for such meeting. Such inspectors shall ascertain and report the number of shares represented at the meeting based upon their determination of the validity and effect of proxies, count all votes, report the results and perform such other acts as are proper to conduct the election and voting with impartiality and fairness to all the shareholders.

Each report of an inspector shall be in writing and signed by him or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be prima facie evidence thereof.

Section 12. REPORTS TO SHAREHOLDERS. The Trustees shall submit to the shareholders at or before the annual meeting of shareholders a report of the business and operations of the Trust during such fiscal year, containing a balance sheet and a statement of income and surplus of the Trust, accompanied by the certification of an independent certified public accountant, and such further information as the Trustees may determine is required pursuant to any law or regulation to which the Trust is subject. Within the earlier of 20 days after the annual meeting of shareholders or 120 days after the end of the fiscal year of the Trust, the Trustees shall place the annual report on file at the principal office of the Trust and with any governmental agencies as may be required by law and as the Trustees may deem appropriate.

Section 13. NOMINATIONS AND PROPOSALS BY SHAREHOLDERS.

(a) Annual Meetings of Shareholders.

(1) Nominations of persons for election to the Board of Trustees and the proposal of business to be considered by the shareholders may be made at an annual meeting of shareholders: (A) pursuant to the Trust's notice of meeting; (B) by or at the direction of the Trustees; or (C) by any shareholder of the Trust who was a shareholder of record both at the time of giving of notice provided for in this Section 13(a) and at the time of the annual meeting, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 13(a).

(2) For nominations or other business to be properly brought before an annual meeting by a shareholder pursuant to clause (C) of paragraph (a)(1) of this Section 13, the shareholder must have given timely notice thereof in writing to the Secretary of the Trust and such other business must otherwise be a proper matter for action by shareholders. To be timely, a shareholder's notice shall be delivered to the Secretary at the principal executive offices of the Trust not later than the close of business on the 120th calendar day before the first anniversary of the date of the Trust's proxy statement released to shareholders in connection with the preceding year's annual meeting; provided, however, that in the event that the date of the current year's annual meeting has been changed by more than 30 days from the date of the preceding year's meeting or if the Trust did not hold an annual meeting the preceding year, notice by the shareholder to be timely must be so delivered within a reasonable time before the Trust begins to print and mail its proxy materials. In no event shall the public announcement of a postponement or adjournment of an annual meeting to a later date or time commence a new time period for the giving of a shareholder's notice as described above. Such shareholder's notice shall set forth: (A) as to each person whom the shareholder proposes to nominate for election or reelection as a Trustee all information relating to such person that is required to be disclosed in solicitations of proxies for election of Trustees in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") (including such person's written consent to being named in the proxy statement as a nominee and to serving as a Trustee if elected); (B) as to any other business that the shareholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such shareholder and of the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the shareholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made: (i) the name and address of such shareholder, as they appear on the Trust's books, and of such beneficial owner; and (ii) the number of each class of shares of the Trust which are owned beneficially and of record by such shareholder and such beneficial owner.

(3) Notwithstanding anything in the second sentence of paragraph (a)(2) of this Section 13 to the contrary, in the event that the number of Trustees to be elected to the Board of Trustees is increased and there is no public announcement by the Trust naming all of the nominees for Trustee or specifying the size of the increased Board of Trustees at least 70 days prior to the first anniversary of the preceding year's annual meeting, a shareholder's notice required by this Section 13(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Trust not later than the close of business on the tenth day following the day on which such public announcement is first made by the Trust.

(b) Special Meetings of Shareholders. Only such business shall be conducted at a special meeting of shareholders as shall have been brought before the meeting pursuant to the Trust's notice of meeting. Nominations of persons for election to the Board of Trustees may be made at a special meeting of shareholders at which Trustees are to be elected: (i) pursuant to the Trust's notice of meeting; (ii) by or at

the direction of the Board of Trustees; or (iii) provided that the Board of Trustees has determined that Trustees shall be elected at such special meeting, by any shareholder of the Trust who was a shareholder of record both at the time of giving of notice provided for in this Section 13(b) and at the time of the special meeting, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 13(b). In the event the Trust calls a special meeting of shareholders for the purpose of electing one or more Trustees to the Board of Trustees, any such shareholder may nominate a person or persons (as the case may be) for election to such position as specified in the Trust's notice of meeting, if the shareholder's notice containing the information required by paragraph (a)(2) of this Section 13 shall be delivered to the Secretary at the principal executive offices of the Trust not earlier than the close of business on the 120th day prior to such special meeting and not later than the close of business on the later of the 90th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Trustees to be elected at such meeting. In no event shall the public announcement of a postponement or adjournment of a special meeting to a later date or time commence a new time period for the giving of a shareholder's notice as described above.

(c) General.

(1) Only such persons who are nominated in accordance with the procedures set forth in this Section 13 shall be eligible to serve as Trustees and only such business shall be conducted at a meeting of shareholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 13. The chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 13 and, if any proposed nomination or business is not in compliance with this Section 13, to declare that such nomination or proposal shall be disregarded.

(2) For purposes of this Section 13, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable news service or in a document publicly filed by the Trust with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(3) Notwithstanding the foregoing provisions of this Section 13, a shareholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 13. Nothing in this Section 13 shall be deemed to affect any rights of shareholders to request inclusion of proposals in, nor the right of the Trust to omit a proposal from, the Trust's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 14. INFORMAL ACTION BY SHAREHOLDERS.

(a) Any action by Shareholders may be taken without a meeting, if a majority of Shares entitled to vote on the matter (or such larger proportion of Shares as shall be required to take such action) consent to the action in writing and the written consents are filed with the records of the meetings of Shareholders.

(b) In order that the Trust may determine the shareholders entitled to consent to action in writing without a meeting, the Board of Trustees may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Trustees, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board of Trustees. Any shareholder of record seeking to have the shareholders authorize or take action by written consent shall, by written notice to the Secretary of the Trust, request the Board of Trustees to fix a record date. The Board of Trustees shall promptly, but in all events within ten (10) days of the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Trustees within ten (10) days of the date on which such a request is received and no prior action by the Board of Trustees is required by applicable law, the record date for determining shareholders entitled to consent to action in writing without a meeting shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Trust by delivery to its registered office in the State of Maryland, its principal place of business, or an

officer or agent of the Trust having custody of the book in which proceedings of shareholders meetings are recorded, in each case to the attention of the Secretary of Trust. Delivery shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Trustees within ten (10) days of the date on which such a request is received and prior action by the Board of Trustees is required by applicable law, the record date for determining shareholders entitled to consent to action in writing without a meeting shall be at the close of business on the date on which the Board of Trustees adopts the resolution taking such prior action.

Section 15. VOTING BY BALLOT. Voting on any question or in any election may be viva voce unless the presiding officer shall order or any shareholder shall demand that voting be by ballot.

ARTICLE III TRUSTEES

Section 1. GENERAL POWERS; QUALIFICATIONS; TRUSTEES HOLDING OVER. The business and affairs of the Trust shall be managed under the direction of its Board of Trustees. A Trustee shall be an individual at least 21 years of age who is not under legal disability. In case of failure to elect Trustees at an annual meeting of the shareholders, the Trustees holding over shall continue to direct the management of the business and affairs of the Trust until their successors are elected and qualify. At no time shall there be more than one Trustee on the Board of Trustees that fails to satisfy the definitions for independence as established from time to time in the Securities Exchange Act of 1934, the New York Stock Exchange's Listed Company Manual and other laws, rules and regulations applicable to the Trust from time to time except during a period of no more than ninety (90) days following changed circumstances.

Section 2. NUMBER. At any regular meeting or at any special meeting called for that purpose, a majority of the entire Board of Trustees may establish, increase or decrease the number of Trustees; provided, however, that the total number of Trustees shall not be less than five (5) or more than ten (10).

Section 3. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Trustees shall be held immediately after and at the same place as the annual meeting of shareholders, no notice other than this Bylaw being necessary. The Trustees may provide, by resolution, the time and place, either within or without the State of Maryland, for the holding of regular meetings of the Trustees without other notice than such resolution.

Section 4. SPECIAL MEETINGS. Special meetings of the Trustees may be called by or at the request of the Chairman of the Board, the Chief Executive Officer or the President or by a majority of the Trustees then in office. The person or persons authorized to call special meetings of the Trustees may fix any place, either within or without the State of Maryland, as the place for holding any special meeting of the Trustees called by them.

Section 5. NOTICE. Notice of any special meeting shall be given by written notice delivered personally, telegraphed, facsimile-transmitted or mailed to each Trustee at his business or residence address. Personally delivered or telegraphed notices shall be given at least two days prior to the meeting. Notice by mail shall be given at least five days prior to the meeting. Telephone or facsimile-transmission notice shall be given at least 24 hours prior to the meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. If given by telegram, such notice shall be deemed to be given when the telegram is delivered to the telegraph company. Telephone notice shall be deemed given when the Trustee is personally given such notice in a telephone call to which the Trustee is a party. Facsimile-transmission notice shall be deemed given upon completion of the transmission of the message to the number given to the Trust by the Trustee and receipt of a completed transmission report confirming delivery. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Trustees need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 6. QUORUM. A majority of the Trustees shall constitute a quorum for transaction of business at any meeting of the Trustees, provided that, if less than a majority of such Trustees are present at said meeting, a majority of the Trustees present may adjourn the meeting from time to time

without further notice, and provided further that if, pursuant to the Declaration of Trust or these Bylaws, the vote of a majority of a particular group of Trustees is required for action, a quorum must also include a majority of such group.

The Trustees present at a meeting which has been duly called and convened may continue to transact business until adjournment, notwithstanding the withdrawal of enough Trustees to leave less than a quorum.

Section 7. VOTING. The action of the majority of the Trustees present at a meeting at which a quorum is present shall be the action of the Trustees, unless the concurrence of a greater proportion is required for such action by applicable statute.

Section 8. TELEPHONE MEETINGS. Trustees may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 9. INFORMAL ACTION BY TRUSTEES. Any action required or permitted to be taken at any meeting of the Trustees may be taken without a meeting, if a consent in writing to such action is signed by each Trustee and such written consent is filed with the minutes of proceedings of the Trustees.

Section 10. VACANCIES. If for any reason any or all the Trustees cease to be Trustees, such event shall not terminate the Trust or affect these Bylaws or the powers of the remaining Trustees hereunder (even if fewer than 3 Trustees remain). Subject to the rights of holders of one or more classes or series of preferred shares then outstanding, any vacancy on the Board of Trustees (including a vacancy created by an increase in the number of Trustees) may be filled by a majority of the remaining Trustees or, if the remaining Trustees fail to act or there is no remaining Trustee, by the vote of holders of at least a majority of the Shares entitled to vote thereon and present in person or by proxy at any meeting of the shareholders called for that purpose. Any individual so elected as Trustee shall serve for the unexpired term of the Trustee he is replacing.

Section 11. COMPENSATION; FINANCIAL ASSISTANCE.

(a) Compensation. Trustees shall not receive any stated salary for their services as Trustees but, by resolution of the Trustees, may receive compensation per year and/or per meeting and/or per visit to real property owned or to be acquired by the Trust and for any service or activity they performed or engaged in as Trustees. Trustees may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Trustees or of any committee thereof; and for their expenses, if any, in connection with each property visit and any other service or activity performed or engaged in as Trustees; but nothing herein contained shall be construed to preclude any Trustees from serving the Trust in any other capacity and receiving compensation therefor.

(b) Financial Assistance to Trustees. To the extent permitted by law, the Trust may lend money to, guarantee an obligation of or otherwise assist a Trustee or a trustee of its direct or indirect subsidiary. The loan, guarantee or other assistance may be with or without interest, unsecured, or secured in any manner that the Board of Trustees approves, including a pledge of Shares.

Section 12. REMOVAL OF TRUSTEES. The shareholders may, at any time, remove any Trustee in the manner provided in the Declaration of Trust.

Section 13. LOSS OF DEPOSITS. No Trustee shall be liable for any loss which may occur by reason of the failure of the bank, trust company, savings and loan association, or other institution with whom moneys or shares have been deposited.

Section 14. SURETY BONDS. Unless required by law, no Trustee shall be obligated to give any bond or surety or other security for the performance of any of his duties.

Section 15. RELIANCE. Each Trustee, officer, employee and agent of the Trust shall, in the performance of his duties with respect to the Trust, be fully justified and protected with regard to any act or failure to act in reliance in good faith upon the books of account or other records of the Trust, upon an opinion of counsel or upon reports made to the Trust by any of its officers or employees or by the adviser, accountants, appraisers or other experts or consultants selected by the Trustees or officers of the Trust, regardless of whether such counsel or expert may also be a Trustee.

Section 16. INTERESTED TRUSTEE TRANSACTIONS. Section 2-419 of the Maryland General Corporation Law (the "MGCL") shall be available for and apply to any contract or other transaction between the Trust and any of its Trustees or between the Trust and any other trust, corporation, firm or other entity in which any of its Trustees is a trustee or director or has a material financial interest.

Section 17. CERTAIN RIGHTS OF TRUSTEES, OFFICERS, EMPLOYEES AND AGENTS. The Trustees shall have no responsibility to devote their full time to the affairs of the Trust. Any Trustee or officer, employee or agent of the Trust (other than a full-time officer, employee or agent of the Trust), in his personal capacity or in a capacity as an affiliate, employee, or agent of any other person, or otherwise, may have business interests and engage in business activities similar or in addition to those of or relating to the Trust, subject to any limitations imposed by applicable law or any policies adopted by the Board of Trustees.

Section 18. CHAIRMAN OF THE BOARD OF TRUSTEES. The Board of Trustees may elect from among the Trustees a Chairman of the Board of Trustees by the affirmative vote of a majority of the full Board of Trustees taken at any regular or special meeting of the Trustees. The Chairman shall preside over the meetings of shareholders and the meetings of the Trustees at which he shall be present. The Chairman may be removed at any time by the affirmative vote of a majority of the full Board of Trustees taken at any regular or special meeting of the Trustees. The Chairman may resign from the position of Chairman at any time by written notice to the Board of Trustees effective upon execution and delivery to the Trust of such written notice or upon any future date specified in such notice, provided that such notice shall not constitute written notice to resign as a Trustee unless so designated.

ARTICLE IV COMMITTEES

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Trustees shall appoint from among its members an Audit Committee, a Compensation Committee, and a Nominating and Corporate Governance Committee. The Trustees may appoint from among its members an Executive Committee and such other committees as they may deem necessary or appropriate. All committees so appointed shall be composed of one or more Trustees to serve at the pleasure of the Trustees; provided, however, that the following committees, to the extent they are created by the Trustees, shall always consist of two or more Trustees: (a) Audit Committee; (b) Compensation Committee; (c) Executive Committee; and (d) Nominating and Corporate Governance Committee.

Section 2. POWERS. The Trustees may delegate to committees appointed under Section 1 of this Article any of the powers of the Trustees, except as prohibited by law.

Section 3. MEETINGS. In the absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another Trustee to act in the place of such absent member. Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Trustees.

One-third, but not less than two, of the members of any committee shall be present in person at any meeting of such committee in order to constitute a quorum for the transaction of business at such meeting, and the act of a majority present shall be the act of such committee. The Board of Trustees may designate a chairman of any committee, and such chairman or any two members of any committee may fix the time and place of its meetings unless the Board shall otherwise provide. In the absence or disqualification of any member of any such committee, the members thereof present at any meeting and not disqualified from voting, whether or not they constitute a quorum, may unanimously appoint another Trustee to act at the meeting in the place of such absent or disqualified members.

Each committee shall keep minutes of its proceedings and shall report the same to the Board of Trustees at the next succeeding meeting, and any action by the committee shall be subject to revision and alteration by the Board of Trustees, provided that no vested or contractual rights of third persons shall be affected by any such revision or alteration.

Section 4. TELEPHONE MEETINGS. Members of a committee of the Trustees may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. INFORMAL ACTION BY COMMITTEES. Any action required or permitted to be taken at any meeting of a committee of the Trustees may be taken without a meeting, if a consent in writing to such action is signed by each member of the committee and such written consent is filed with the minutes of proceedings of such committee.

Section 6. VACANCIES. Subject to the provisions hereof, the Board of Trustees shall have the power at any time to change the membership of any committee, to fill all vacancies, to designate alternate members to replace any absent or disqualified member or to dissolve any such committee unless such committee is required to be maintained pursuant to any applicable law, rule or regulation.

ARTICLE V OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Trust shall include a President, a Secretary and a Treasurer and may include a Chief Executive Officer, a Chief Operating Officer, a Chief Financial Officer, one or more Vice Presidents, one or more Assistant Secretaries and one or more Assistant Treasurers. In addition: (a) the Trustees may from time to time appoint such other officers who the Trustees designate by resolution as "Executive Officers" of the Trust with such powers and duties as they shall deem necessary or desirable; and (b) the Chief Executive Officer (or, if there is no Chief Executive Officer, the President) may from time to time appoint any other officers with such powers and duties as the Chief Executive Officer (or the President, as applicable) shall deem necessary or desirable. The Chief Executive Officer and other Executive Officers of the Trust shall be appointed at such intervals as the Trustees may determine, and all other officers of the Trust shall be appointed at such intervals as the Chief Executive Officer (or, if there is no Chief Executive Officer, the President) may determine. Each officer shall hold office until his successor is elected and qualifies or until the earlier of his death, resignation or removal in the manner hereinafter provided. Any two or more offices except President and Vice President may be held by the same person. The Trustees, in their discretion, or the Chief Executive Officer (or, if there is no Chief Executive Officer, the President) may leave unfilled any office except those of President, Secretary and Treasurer. Appointment of an officer or agent shall not of itself create contract rights between the Trust and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Trust may be removed at any time by the affirmative vote of two-thirds of the full Board of Trustees taken at any regular or special meeting of the Trustees if in their judgment the best interests of the Trust would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. In addition, the Chief Executive Officer (or, if there is no Chief Executive Officer at such time, the President) may remove any officer or agent of the Trust other than an Executive Officer at any time if, in his judgment, the best interests of the Trust would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Trust may resign at any time by giving written notice of his resignation to the Trustees, the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. Any resignation shall take effect at any time subsequent to the time specified therein or, if the time when it shall become effective is not specified therein, immediately upon its receipt. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Trust.

Section 3. VACANCIES. A vacancy in any office may be filled by the Trustees for the balance of the term of office, and a vacancy in any office other than those of Chief Executive Officer, President and any other Executive Officer may be filled by the Chief Executive Officer (or, if there is no Chief Executive Officer at such time, the President) for the balance of the term of office.

Section 4. CHIEF EXECUTIVE OFFICER. The Trustees may designate a Chief Executive Officer from among the elected or appointed officers. The Chief Executive Officer shall have responsibility for implementation of the policies of the Trust, as determined by the Trustees, and for the administration of the business affairs of the Trust. In the absence of the Chairman of the Board or if there is no Chairman of the Board, the Chief Executive Officer shall preside over the meetings of the shareholders and the meetings of the Trustees at which he shall be present. The Chief Executive Officer shall have the right to delegate any rights and responsibilities relating to the appointment and removal of officers to any other Executive Officer, subject to such limitations as the Chief Executive Officer shall determine.

Section 5. CHIEF OPERATING OFFICER. The Trustees may designate a Chief Operating Officer from among the elected or appointed officers. The Chief Operating Officer shall have the responsibilities and duties as set forth by the Trustees or the Chief Executive Officer (or, if there is no Chief Executive Officer at such time, the President).

Section 6. CHIEF FINANCIAL OFFICER. The Trustees may designate a Chief Financial Officer from among the elected or appointed officers. The Chief Financial Officer shall have the responsibilities and duties as set forth by the Trustees or the Chief Executive Officer (or, if there is no Chief Executive Officer at such time, the President).

Section 7. PRESIDENT. In the absence of the Chairman of the Board (or if there is no Chairman of the Board) and the absence of the Chief Executive Officer, the President shall preside over the meetings of the shareholders and meetings of the Trustees at which he shall be present. In the absence of a designation of a Chief Executive Officer by the Trustees, the President shall be the Chief Executive Officer and shall be ex officio a member of all committees that may, from time to time, be constituted by the Trustees. The President may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Trustees or by these Bylaws to some other officer or agent of the Trust or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Trustees from time to time. The President shall have the right to delegate any rights and responsibilities relating to the appointment and removal of officers to any other Executive Officer, subject to such limitations as the President shall determine.

Section 8. VICE PRESIDENTS. In the absence of the President or in the event of a vacancy in such office, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the President and when so acting shall have all the powers of and be subject to all the restrictions upon the President; and shall perform such other duties as from time to time may be assigned to him by the President or by the Trustees. The Trustees may designate one or more Vice Presidents as Executive Vice Presidents, Senior Vice Presidents or Vice Presidents for particular areas of responsibility.

Section 9. SECRETARY. The Secretary shall: (a) keep the minutes of the proceedings of the shareholders, the Trustees and committees of the Trustees in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the Trust records and of the seal of the Trust; (d) keep a register of the post office address of each shareholder which shall be furnished to the Secretary by such shareholder; (e) have general charge of the share transfer books of the Trust; (f) vote, on behalf of the Trust, all of the shares of any subsidiary of the Trust, whether currently existing or created in the future, on each matter presented to shareholders of any such subsidiary for a vote; and (g) in general, perform such other duties as from time to time may be assigned to him or her by the Chief Executive Officer, the President or the Trustees.

Section 10. **TREASURER.** The Treasurer shall have the custody of the funds and securities of the Trust and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Trust and shall deposit all moneys and other valuable effects in the name and to the credit of the Trust in such depositories as may be designated by the Trustees.

He shall disburse the funds of the Trust in accordance with the authority granted by the Chief Executive Officer, the President or the Trustees, taking proper vouchers for such disbursements, and shall render to the President and Trustees, whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Trust.

If required by the Trustees, he shall give the Trust a bond in such sum and with such surety or sureties as shall be satisfactory to the Trustees for the faithful performance of the duties of his office and for the restoration to the Trust, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, moneys and other property of whatever kind in his possession or under his control belonging to the Trust.

Section 11. **ASSISTANT SECRETARIES AND ASSISTANT TREASURERS.** The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or Treasurer, respectively, or by the Chief Executive Officer, the President or the Trustees. The Assistant Treasurers shall, if required by the Trustees, give bonds for the faithful performance of their duties in such sums and with such surety or sureties as shall be satisfactory to the Trustees.

Section 12. **SALARIES.** The salaries and other compensation of the officers shall be fixed from time to time by or with the approval of the Trustees and no officer shall be prevented from receiving such salary or other compensation by reason of the fact that he is also a Trustee.

ARTICLE VI CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. **CONTRACTS.** The Trustees may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Trust and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document executed by one or more of the Trustees or by an authorized person shall be valid and binding upon the Trustees and upon the Trust when authorized or ratified by action of the Trustees.

Section 2. **CHECKS AND DRAFTS.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Trust shall be signed by such officer or agent of the Trust in such manner as shall from time to time be determined by the Trustees.

Section 3. **DEPOSITS.** All funds of the Trust not otherwise employed shall be deposited from time to time to the credit of the Trust in such banks, trust companies or other depositories as the Trustees may designate. If the Trustees fail to designate a depository, the Chief Executive Officer (or if there is no Chief Executive Officer, the President) may do so.

ARTICLE VII SHARES

Section 1. **CERTIFICATES.** Each shareholder shall be entitled to a certificate or certificates which shall represent and certify the number of shares of each class of beneficial interests held by him in the Trust. Each certificate shall be signed by the Chief Executive Officer, the President or an Executive Officer and countersigned by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer and may be sealed with the seal, if any, of the Trust. The signatures may be either manual or facsimile. Certificates shall be consecutively numbered; and if the Trust shall, from time to time, issue several classes of shares, each class may have its own number series. A certificate is valid and may be issued whether or not an officer who signed it is still an officer when it is issued. Each certificate representing shares which are restricted as to their transferability or voting powers, which are preferred or limited as to their dividends or as to their allocable portion of the assets upon liquidation or which are redeemable at the option of the Trust, shall have a statement of such restriction, limitation, preference or

redemption provision, or a summary thereof, plainly stated on the certificate. In lieu of such statement or summary, the Trust may set forth upon the face or back of the certificate a statement that the Trust will furnish to any shareholder, upon request and without charge, a full statement of such information.

Section 2. TRANSFERS. Certificates shall be treated as negotiable and title thereto and to the shares they represent shall be transferred by delivery thereof to the same extent as those of a Maryland stock corporation. Upon surrender to the Trust or the transfer agent of the Trust of a share certificate duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Trust shall issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

The Trust shall be entitled to treat the holder of record of any share or shares as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of beneficial interest of the Trust will be subject in all respects to the Declaration of Trust and all of the terms and conditions contained therein.

Section 3. REPLACEMENT CERTIFICATE. Any officer designated by the Trustees may direct a new certificate to be issued in place of any certificate previously issued by the Trust alleged to have been lost, stolen or destroyed upon the making of an affidavit of that fact by the person claiming the certificate to be lost, stolen or destroyed. When authorizing the issuance of a new certificate, an officer designated by the Trustees may, in his discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or the owner's legal representative to advertise the same in such manner as the officer shall require and/or to give bond, with sufficient surety, to the Trust to indemnify it against any loss or claim which may arise as a result of the issuance of a new certificate.

Section 4. CLOSING OF TRANSFER BOOKS OR FIXING OF RECORD DATE. The Trustees may set, in advance, a record date for the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or determining shareholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of shareholders for any other proper purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of shareholders not less than ten days, before the date on which the meeting or particular action requiring such determination of shareholders of record is to be held or taken.

In lieu of fixing a record date, the Trustees may provide that the share transfer books shall be closed for a stated period but not longer than 20 days. If the share transfer books are closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days before the date of such meeting.

If no record date is fixed and the share transfer books are not closed for the determination of shareholders: (a) the record date for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the day on which the notice of meeting is mailed or the 30th day before the meeting, whichever is the closer date to the meeting; and (b) the record date for the determination of shareholders entitled to receive payment of a dividend or an allotment of any other rights shall be the close of business on the day on which the resolution of the Trustees, declaring the dividend or allotment of rights, is adopted.

When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof, except when: (i) the determination has been made through the closing of the transfer books and the stated period of closing has expired; or (ii) the meeting is adjourned to a date more than 120 days after the record date fixed for the original meeting, in either of which case a new record date shall be determined as set forth herein.

Section 5. STOCK LEDGER. The Trust shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate share ledger containing the name and address of each shareholder and the number of shares of each class held by such shareholder.

Section 6. FRACTIONAL SHARES; ISSUANCE OF UNITS. The Trustees may issue fractional shares or provide for the issuance of scrip, all on such terms and under such conditions as they may determine. Notwithstanding any other provision of the Declaration of Trust or these Bylaws, the Trustees may issue units consisting of different securities of the Trust. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Trust, except that the Trustees may provide that for a specified period securities of the Trust issued in such unit may be transferred on the books of the Trust only in such unit.

**ARTICLE VIII
ACCOUNTING YEAR**

The Trustees shall have the power, from time to time, to fix the fiscal year of the Trust by a duly adopted resolution.

**ARTICLE IX
DISTRIBUTIONS**

Section 1. AUTHORIZATION. Dividends and other distributions upon the shares of beneficial interest of the Trust may be authorized and declared by the Trustees, subject to the provisions of law and the Declaration of Trust. Dividends and other distributions may be paid in cash, property or shares of the Trust, subject to the provisions of law and the Declaration of Trust.

Section 2. CONTINGENCIES. Before payment of any dividends or other distributions, there may be set aside out of any funds of the Trust available for dividends or other distributions such sum or sums as the Trustees may from time to time, in their absolute discretion, think proper as a reserve fund for contingencies, for equalizing dividends or other distributions, for repairing or maintaining any property of the Trust or for such other purpose as the Trustees shall determine to be in the best interest of the Trust, and the Trustees may modify or abolish any such reserve in the manner in which it was created.

**ARTICLE X
INVESTMENT POLICY**

Subject to the provisions of the Declaration of Trust, the Board of Trustees may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Trust as it shall deem appropriate in its sole discretion.

**ARTICLE XI
SEAL**

Section 1. SEAL. The Trustees may authorize the adoption of a seal by the Trust. The seal shall have inscribed thereon the name of the Trust and the year of its formation. The Trustees may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. AFFIXING SEAL. Whenever the Trust is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Trust.

**ARTICLE XII
INDEMNIFICATION AND ADVANCE OF EXPENSES**

To the maximum extent permitted by Maryland law in effect from time to time, the Trust shall indemnify: (a) any Trustee, officer or shareholder or any former Trustee, officer or shareholder (including among the foregoing, for all purposes of this Article XII and without limitation, any individual who, while a Trustee, officer or shareholder and at the express request of the Trust, serves or has served another real estate investment trust, corporation, partnership, limited liability company, joint venture, trust, employee benefit

plan or any other enterprise as a director, officer, shareholder, manager, member, partner or trustee of such real estate investment trust, corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise) who has been successful, on the merits or otherwise, in the defense of a proceeding to which he or she was made a party by reason of service in such capacity, against reasonable expenses incurred by him or her in connection with the proceeding; (b) any Trustee or officer or any former Trustee or officer against any claim or liability to which he or she may become subject by reason of such status unless it is established that: (i) his or her act or omission was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty; (ii) he or she actually received an improper personal benefit in money, property or services; or (iii) in the case of a criminal proceeding, he or she had reasonable cause to believe that his or her act or omission was unlawful; and (c) each shareholder or former shareholder against any claim or liability to which he or she may become subject by reason of such status. In addition, the Trust shall, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse, in advance of final disposition of a proceeding, reasonable expenses incurred by a Trustee, officer or shareholder or former Trustee, officer or shareholder made a party to a proceeding by reason such status, provided that, in the case of a Trustee or officer, the Trust shall have received: (1) a written affirmation by the Trustee or officer of his or her good faith belief that he or she has met the applicable standard of conduct necessary for indemnification by the Trust as authorized by these Bylaws; and (2) a written undertaking by or on his or her behalf to repay the amount paid or reimbursed by the Trust if it shall ultimately be determined that the applicable standard of conduct was not met. The Trust may, with the approval of its Trustees, provide such indemnification or payment or reimbursement of expenses to any Trustee, officer or shareholder or any former Trustee, officer or shareholder who served a predecessor of the Trust and to any employee or agent of the Trust or a predecessor of the Trust. Neither the amendment nor repeal of this Article, nor the adoption or amendment of any other provision of the Declaration of Trust or these Bylaws inconsistent with this Article, shall apply to or affect in any respect the applicability of this Article with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

Any indemnification or payment or reimbursement of the expenses permitted by these Bylaws shall be furnished in accordance with the procedures provided for indemnification or payment or reimbursement of expenses, as the case may be, under Section 2-418 of the MGCL for directors of Maryland corporations. The Trust may provide to Trustees, officers and shareholders such other and further indemnification or payment or reimbursement of expenses, as the case may be, to the fullest extent permitted by the MGCL, as in effect from time to time, for directors of Maryland corporations.

**ARTICLE XIII
WAIVER OF NOTICE**

Whenever any notice is required to be given pursuant to the Declaration of Trust or Bylaws or pursuant to applicable law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**ARTICLE XIV
AMENDMENT OF BYLAWS**

Section 1. **AMENDMENT BY SHAREHOLDERS.** Any provision of these Bylaws may be adopted, altered or repealed by the shareholders at any meeting of shareholders called for that purpose, by the affirmative vote of holders of not less than a majority of the shares then outstanding and entitled to vote.

Section 2. **AMENDMENT BY TRUSTEES.** Except as otherwise provided in any Bylaws adopted pursuant to Section 1 of this Article XIV or as otherwise required pursuant to the last paragraph of Section 10 of Article II, any provision of these Bylaws may be adopted, altered or repealed by the Trustees provided that the Trustees may not repeal Section 1 of this Article XIV, or the last paragraph of Section 10 of Article II, or increase the shareholder vote required under either of such sections.

ARTICLE XV
MISCELLANEOUS

All references to the Declaration of Trust shall include any amendments thereto.

Amended on October 29, 2003
Amended on May 5, 2004
Amended on February 17, 2006
Amended on May 6, 2009

June 16, 2009

Federal Realty Investment Trust
1626 East Jefferson Street
Rockville, Maryland 20852

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Federal Realty Investment Trust, a Maryland real estate investment trust (the "Company"), in connection with a registration statement on Form S-3 (the "Registration Statement"), filed with the Securities and Exchange Commission (the "Commission") under Rule 462(e) under the Securities Act of 1933 (the "Act"). The Registration Statement relates to the proposed offering and sale from time to time of securities, which may be all or any combination of: (1) debt securities of the Company which may be either senior debt securities or subordinated debt securities (the "Debt Securities"), (2) preferred shares of beneficial interest (the "Preferred Shares"), (3) preferred shares of beneficial interest represented by depositary shares (the "Depositary Shares"), (4) common shares of beneficial interest including rights to acquire common shares that are attached to, or trade with, common shares (the "Common Shares"), and/or (5) warrants to purchase Common Shares or Preferred Shares (the "Warrants").

The Debt Securities, the Preferred Shares, the Depositary Shares, the Common Shares and the Warrants are collectively referred to herein as the "Securities." The Debt Securities will be offered and sold pursuant to one or more indentures, including the senior indenture dated September 1, 1998 between the Company and U.S. Bank National Association, successor to Wachovia Bank National Association (formerly First Union National Bank) (the "Trustee"), which was filed as an exhibit to the Company's registration statement on Form S-3 filed on September 17, 1998 (the "Senior Indenture"), and any additional indentures entered into from time to time (the "Indentures"). The Common Shares and/or Preferred Shares may be offered in any class or series and to the extent required will be offered and sold pursuant to articles supplementary and/or amendments to the Declaration of Trust (as defined below), which are to be filed with the Maryland State Department of Assessments and Taxation ("SDAT"). Any Depositary Shares will be issued under one or more deposit agreements (each, a "Deposit Agreement"), each between the Company and a financial institution identified therein as the depositary (each, a "Depositary"). Any Warrants will be issued under one or more warrant agreements (each, a "Warrant Agreement"), each between the Company and a financial institution identified therein as a warrant agent (each, a "Warrant Agent").

For the purposes of this opinion, we have examined the following documents:

1. an executed copy of the Registration Statement;
2. the Declaration of Trust of the Company dated May 5, 1999, as amended by the Articles of Amendment of Declaration of Trust of the Company dated May 6, 2004, as corrected by the Certificate of Correction of Articles of Amendment of Declaration of Trust of the Company dated June 17, 2004, as amended by the Articles of Amendment of Declaration of Trust of the Company dated May 6, 2009 (the "Declaration of Trust"), as certified by SDAT on May 20, 2009 and as certified to us by the Secretary of the Company as being in effect as of the date hereof;
3. the Amended and Restated Bylaws of the Company dated February 12, 2003, as amended October 29, 2003, May 5, 2004, February 17, 2006 and May 6, 2009 (the "Bylaws"), as certified to us by the Secretary of the Company as being in effect as of the date hereof;
4. Articles Supplementary relating to the 5.417% Series 1 Cumulative Convertible Preferred shares of Beneficial Interest dated March 8, 2007, as certified by SDAT on May 20, 2009 and as certified to us by the Secretary of the Company as being in effect as of the date hereof;
5. the Senior Indenture;
6. the Amended and Restated Rights Agreement, dated March 11, 1999, between the Company and American Stock Transfer & Trust Company, as amended by the First Amendment to Amended and Restated Rights Agreement, dated as of November 23, 2003, between the Company and American Stock Transfer & Trust Company, as amended by the Second Amendment to the Amended and Restated Rights Agreement, dated as of March 11, 2009, between the Company and American Stock Transfer & Trust Company;
7. the resolutions of the Board of Trustees of the Company adopted at a meeting held on May 5, 2009 (the "Resolutions");
8. a certificate of an officer of the Company dated as of the date hereof; and
9. such other documents, corporate records, certificates of public officials and other instruments as we have deemed necessary for the purposes of rendering this opinion.

In our examination of the aforesaid documents, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the completeness and authenticity of all documents submitted to us as originals, and the conformity to original documents of all documents submitted to us as certified, telecopied, photostatic or reproduced copies. In connection with the opinions expressed below, we have assumed that, at and prior to the time of

the sale and delivery of any Securities pursuant to the Registration Statement, (i) the Board of Trustees of the Company (or the committee of the Board or the officer authorized to act on behalf of the Company) will have duly established the rights, powers, privileges and preferences and other terms, if any, of any class or series, as applicable, of the Debt Securities, the Preferred Shares, the Depositary Shares, the Common Shares or the Warrants, and shall have authorized the sale of such Securities, (ii) the Resolutions will have not been amended, modified or rescinded, (iii) the Registration Statement will have been declared effective and no stop order suspending the effectiveness of the Registration Statement will have been issued and no proceedings with respect thereto will have been commenced or threatened, and (iv) a Prospectus Supplement will have been prepared and filed with the Commission describing the Securities offered thereby, and (v) there will not have occurred any change in law materially and adversely affecting the power of the Company to offer and sell the Securities or the validity of the Securities.

We have also assumed that the terms of any Debt Securities, Preferred Shares, Depositary Shares, Common Shares or Warrants to be established subsequent to the date hereof, the offering, sale and delivery of any such Securities, and compliance by the Company with the rights, powers, privileges and preferences and other terms, if any, of such Debt Securities, Preferred Shares, Depositary Shares, Common Shares or Warrants will not at the time of such offering, sale and delivery violate or conflict with (i) the Declaration of Trust, as then amended, restated and supplemented, and the Bylaws, as then amended, restated and supplemented, of the Company, (ii) any provision of any license, indenture, instrument, mortgage, contract, document or agreement to which the Company is then a party or by which the Company is then bound, or (iii) any law or regulation or any decree, judgment or order then applicable to the Company. We have further assumed that the number of Common Shares or Preferred Shares to be offered and sold pursuant to the Registration Statement will not at the time of such offering and sale exceed the amount of such class of capital shares authorized in the Declaration of Trust, as then amended, restated or supplemented, and unissued (and not otherwise reserved for issuance) at such time. We have also assumed that prior to the offering and sale (i) in the case of Debt Securities, any supplement to the Indentures will have been executed and delivered by the Company, the trustee and the other parties thereto that complies with the Trust Indenture Act of 1939 and any other applicable laws; (ii) in the case of Preferred Shares and Depositary Shares, as applicable, articles supplementary will have been filed with, and accepted for record by, SDAT; (iii) in the case of Depositary Shares, a Deposit Agreement will have been executed and delivered by the Company (and any other maker thereof); and (iv) in the case of Warrants, a Warrant Agreement will have been executed and delivered by the Company (and any other maker thereof).

To the extent that the obligations of the Company with respect to the Securities may be dependent upon such matters, we assume for purposes of this opinion that the other party under the Indentures or any supplements thereto for any Debt Securities, under a Deposit Agreement for any Depositary Shares and under a Warrant Agreement for any Warrants, namely, the trustee, the Depositary or the Warrant Agent, respectively, is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; that such other party is duly qualified to engage in the activities contemplated by the Indentures or any supplements thereto,

Deposit Agreement or Warrant Agreement, as applicable; that the Indentures or any supplements thereto, Deposit Agreement or Warrant Agreement, as applicable, has been duly authorized, executed and delivered by the other party and constitutes the legal, valid and binding obligation of the other party enforceable against the other party in accordance with its terms; that such other party is in compliance with respect to performance of its obligations under the Indentures or any supplements thereto, Deposit Agreement or Warrant Agreement, and with all applicable laws and regulations; and that such other party has the requisite organizational and legal power and authority to perform its obligations under the Indentures or any supplements thereto, Deposit Agreement or Warrant Agreement, as applicable.

Based upon, subject to and limited by the foregoing, we are of the opinion that:

1. The Debt Securities will constitute legally valid and binding obligations of the Company, enforceable against the Company in accordance with their terms and entitled to the benefits of the Indentures and any applicable supplements thereto when (i) the final terms of the Debt Securities and any applicable supplements to the Indentures have been duly established in accordance with the Declaration of Trust and applicable law; (ii) the Board of Trustees or a duly authorized committee thereof has adopted a resolution, in form and content as required by applicable law, establishing the final terms of the Debt Securities and any applicable supplements to the Indentures and duly authorizing the issuance and delivery of the Debt Securities; and (iii) the Debt Securities are duly executed, authenticated and delivered by the Company against payment therefor and countersigned by the applicable trustee in accordance with any applicable supplements to the Indentures and sold, delivered to and paid for by the purchasers of the Debt Securities in the manner contemplated by the Registration Statement, the applicable prospectus supplement and such resolution.
2. Upon adoption by the Board of Trustees or an authorized committee thereof of a resolution in form and content as required by applicable law approving the issuance and establishing the terms of any particular series of Preferred Shares (including any Preferred Shares represented by Depositary Shares), the offering thereof and related matters, including the filing of articles supplementary conforming to the Maryland General Corporation Law regarding the Preferred Shares with SDAT, and upon issuance and delivery of and payment in the manner contemplated by, and in accordance with, the Registration Statement, the applicable prospectus supplement and such resolution, the Preferred Shares (including any Preferred Shares represented by Depositary Shares, any Preferred Shares duly issued upon conversion, exchange or exercise of any other Security in accordance with the terms of such Security or the instrument governing such Security providing for such conversion, exchange or exercise as approved by the Board of Trustees) offered and sold pursuant to the Registration Statement will be legally issued, fully paid and nonassessable.
3. Upon adoption by the Board of Trustees or an authorized committee thereof of a resolution in form and content as required by applicable law approving the issuance and establishing the terms of the offering of Common Shares and related matters, and upon issuance and delivery of and payment in the manner contemplated by, and in accordance with, the Registration Statement, the applicable prospectus supplement and such resolution, the Common Shares (including any Common Shares duly issued upon conversion, exchange or exercise of any

other Security in accordance with the terms of such Security or the instrument governing such Security providing for such conversion, exchange or exercise as approved by the Board of Trustees) offered and sold pursuant to the Registration Statement will be legally issued, fully paid and nonassessable.

4. Upon (i) adoption by the Board of Trustees or an authorized committee thereof, of a resolution in form and content as required by applicable law, establishing or authorizing the terms of the series of Preferred Shares to be offered in connection with the Depositary Shares, the terms of the Depositary Shares and the applicable Deposit Agreement and specifically authorizing for issuance the depositary receipts evidencing the Depositary Shares and (ii) due execution by the Company of the depositary receipts evidencing the Depositary Shares and approving related matters, including the filing of an Articles Supplementary conforming to the Maryland General Corporation Law regarding the Preferred Shares with SDAT, satisfaction of all conditions for delivery of such depositary receipts established by the authorization of the Company's Board of Trustees or an authorized committee thereof, and delivery of such depositary receipts by the Company against payment therefor in the manner contemplated by, and in accordance with, the Registration Statement, the applicable prospectus supplement, the Deposit Agreement relating thereto, and such resolution, the depositary receipts evidencing the Depositary Shares will entitle the holders thereof to the rights specified in such depositary receipts.
5. Upon (i) adoption by the Board of Trustees or an authorized committee thereof, of a resolution in form and content as required by applicable law, establishing or authorizing the terms of the Warrants and the applicable Warrant Agreement and (ii) due execution by the Company of such Warrants and such Warrant Agreement, satisfaction of all conditions for delivery of such Warrants established by the authorization of the Company's Board of Trustees or an authorized committee thereof, and delivery of such Warrants by the Company against payment therefor in the manner contemplated by, and in accordance with, the Registration Statement, the applicable prospectus supplement, the Warrant Agreement relating thereto, and such resolution, such Warrants will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

Our opinions in Paragraphs 1, 4 and 5 above are subject to and limited by the effect of bankruptcy, insolvency, fraudulent conveyance and other similar laws affecting or relating to the rights of creditors generally, and are limited by general equitable principles.

This opinion is limited to the laws of the United States, the State of Maryland and, with respect to the opinion expressed in Paragraph 1 above, the State of New York contract law (but not including any statutes, ordinances, administrative decisions, rules or regulations of any political subdivision of the State of New York), in each case excluding choice-of-law provisions thereof. We render no opinions with respect to the law of any other jurisdiction. Our opinion is rendered only with respect to the laws and the rules, regulations and orders thereunder that are currently in effect. We assume no obligation to advise you of any changes in the foregoing subsequent to the delivery of this opinion. This opinion has been prepared solely for your use in

connection with the filing of the Registration Statement, and should not be quoted in whole or in part or otherwise be referred to, nor otherwise be filed with or furnished to, any governmental agency or other person or entity, without our express prior written consent.

We hereby consent to the filing of this opinion letter as an exhibit to the Registration Statement and to the use of our name therein under the caption "Legal Matters." The giving of this consent, however, does not constitute an admission that we are "experts" within the meaning of Section 11 of the Act, or within the category of persons whose consent is required by Section 7 of the Act.

Very truly yours,

/s/ Pillsbury Winthrop Shaw Pittman LLP

PILLSBURY WINTHROP SHAW PITTMAN LLP

Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW | Washington, DC 20037-1122 | tel 202.663.8000 | fax 202.663.8007

June 16, 2009

Federal Realty Investment Trust
1626 East Jefferson Street
Rockville, Maryland 20852

Ladies and Gentlemen:

You have requested certain opinions regarding the application of U.S. federal income tax laws to Federal Realty Investment Trust, a Maryland real estate investment trust (the "Company"), in connection with the filing of a registration statement on Form S-3 dated June 15, 2009 (the "Registration Statement," which term includes a prospectus (the "Prospectus") and all documents incorporated and deemed to be incorporated by reference therein) with the Securities and Exchange Commission.

In rendering the following opinions, we have examined such statutes, regulations, records, certificates and other documents as we have considered necessary or appropriate as a basis for such opinions, including the following: (1) the Company's Registration Statement, (2) the Declaration of Trust of the Company, as amended, restated or supplemented, if applicable (the "Declaration of Trust") and the Amended and Restated Bylaws of the Company, (3) certain written representations of the Company contained in a letter to us dated as of the date hereof, a copy of which is attached as Schedule 1 hereto, (4) copies of the representative leases entered into by the Company as of the date hereof, and (5) such other documents or information as we have deemed necessary to render the opinions set forth in this letter. In our review, we have assumed, with your consent, that all of the representations and statements set forth in such documents as to factual matters (but not legal conclusions) are true and correct, and all of the obligations imposed by any such documents on the parties thereto, including obligations imposed under the Declaration of Trust, have been or will be performed or satisfied in accordance with their terms. We also have assumed the genuineness of all signatures, the proper execution of all documents, the authenticity of all documents submitted to us as originals, the conformity to originals of documents submitted to us as copies, and the authenticity of the originals from which any copies were made.

Unless facts material to the opinions expressed herein are specifically stated to have been independently established or verified by us, we have relied as to such facts solely upon the representations made by the Company. To the extent that the representations of the Company are with respect to matters set forth in the Internal Revenue Code of 1986, as amended (the "Code") or the regulations promulgated thereunder (the "Treasury Regulations"), we have reviewed with the individuals making

such representations the relevant provisions of the Code, the applicable Treasury Regulations and published administrative interpretations thereof. We assume that each representation made by the Company is and will be true, correct and complete, and that all representations that speak in the future, or to the intention, or to the best of belief and knowledge of any person(s) or party(ies) are and will be true, correct and complete as if made without such qualification. Nothing has come to our attention which would cause us to believe that any of such representations are untrue, incorrect or incomplete.

Based upon and subject to the foregoing and to the qualifications below, we are of the opinion that (i) the Company qualified as a real estate investment trust, or REIT, under the Code for each of its taxable years ending after December 31, 1986 and before January 1, 2009; and the Company qualified as a REIT under the Internal Revenue Code of 1954 for each of its taxable years ending before January 1, 1987, (ii) the Company is organized in conformity with the requirements for qualification as a REIT under the Code, and its current method of operation and ownership will enable it to meet the requirements for qualification as a REIT for the current (2009) taxable year and for future taxable years, and (iii) the discussions in (x) the Prospectus under the caption "Material Federal Income Tax Considerations," and (y) the Company's Annual Report on Form 10-K for the year ended December 31, 2008 under the captions "Risk Factors—Failure to qualify as a REIT for federal income tax purposes would cause us to be taxed as a corporation, which would substantially reduce funds available for payment of distributions," "Risk Factors—We may be required to incur additional debt to qualify as a REIT" and "Risk Factors—To maintain our status as a REIT, we limit the amount of shares any one shareholder can own," which is incorporated by reference into the Registration Statement, to the extent that they discuss matters of law or legal conclusions or purport to describe certain provisions of the federal tax laws, are correct summaries of the matters discussed therein, and the opinions of such counsel appearing in the Prospectus under "Material Federal Income Tax Considerations" are hereby confirmed.

The opinions set forth in this letter are based on existing law as contained in the Code, Treasury Regulations (including any Temporary and Proposed Regulations), and interpretations of the foregoing by the Internal Revenue Service ("IRS") and by the courts in effect (or, in case of certain Proposed Regulations, proposed) as of the date hereof, all of which are subject to change, both retroactively or prospectively, and to possibly different interpretations. Moreover, the Company's ability to achieve and maintain qualification as a REIT depends upon its ability to achieve and maintain certain diversity of stock ownership requirements and, through actual annual operating results, certain requirements under the Code regarding its income, assets and distribution levels. No assurance can be given as to whether, for any given taxable year, the actual ownership of the Company's stock and its actual operating results and distributions satisfy the tests necessary to achieve and maintain its status as a REIT.

The foregoing opinions are limited to the specific matters covered thereby and should not be interpreted to imply the undersigned has offered its opinion on any other matter. We assume no obligation to update the opinions set forth in this letter after the date hereof.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. The giving of this consent, however, does not constitute an admission that we are “experts” within the meaning of Section 11 of the Securities Act of 1933, as amended (the “Act”), or within the category of persons whose consent is required by Section 7 of the Act.

Very truly yours,

/s/ Pillsbury Winthrop Shaw Pittman LLP

PILLSBURY WINTHROP SHAW PITTMAN LLP

Federal Realty Investment Trust
Computation of Ratio of Earnings to Combined Fixed Charges & Preferred Share Dividends
(in thousands)

	Three Months Ended March 31,		Year Ended December 31,				
	2009	2008	2008	2007	2006	2005	2004
Earnings:							
Income from continuing operations before noncontrolling interests and income or loss from equity investees	\$10,862	\$30,175	\$119,438	\$96,032	\$92,194	\$86,508	\$66,422
Distributed income of equity investees	282	511	2,367	3,599	2,337	1,874	1,114
Fixed charges (excluding capitalized interest)	23,952	24,935	101,143	113,462	97,332	83,429	79,930
Noncontrolling interests in income of subsidiaries with no fixed charges	(890)	(833)	(3,482)	(3,593)	(3,095)	(3,131)	(2,372)
Total earnings (A)	\$34,206	\$54,788	\$219,466	\$209,500	\$188,768	\$168,680	\$145,094
Fixed charges:							
Interest expense	\$23,569	\$24,353	\$99,163	\$111,365	\$95,234	\$81,617	\$78,077
Capitalized interest	1,367	1,790	5,301	7,865	4,069	5,691	5,121
Portion of rents representing interest	383	582	1,980	2,097	2,098	1,812	1,853
Total fixed charges (B)	\$25,319	\$26,725	\$106,444	\$121,327	\$101,401	\$89,120	\$85,051
Preferred stock dividends	135	135	541	442	10,423	11,475	11,475
Preferred stock redemption costs	—	—	—	—	4,775	—	—
Total fixed charges and preferred stock dividends (C)	\$25,454	\$26,860	\$106,985	\$121,769	\$116,599	\$100,595	\$96,526
Ratio of earnings to fixed charges (A divided by B)	1.4	2.1	2.1	1.7	1.9	1.9	1.7
Ratio of earnings to combined fixed charges and preferred stock dividends (A divided by C)	1.3	2.0	2.1	1.7	1.6	1.7	1.5

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our reports dated February 25, 2009, with respect to the consolidated financial statements and internal control over financial reporting included in the Annual Report of Federal Realty Investment Trust on Form 10-K for the year ended December 31, 2008 which is incorporated by reference in this Registration Statement. We consent to the incorporation by reference of the aforementioned reports in the Registration Statement of Federal Realty Investment Trust and to the use of our name as it appears under the caption "Experts."

/s/ GRANT THORNTON LLP

McLean, Virginia
June 15, 2009

POWER OF ATTORNEY

We, the undersigned trustees and officers of Federal Realty Investment Trust, a Maryland real estate investment trust, do hereby constitute and appoint Donald C. Wood, Andrew P. Blocher and Dawn M. Becker, and each and either of them, our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, to do any and all acts and things in our names and on our behalf in our capacities as trustees and officers and to execute any and all instruments for us and in our name in the capacities indicated below, which said attorneys and agents may deem necessary or advisable to enable said trust to comply with the Securities Act of 1933 and any rules, regulations and requirements of the Securities and Exchange Commission, in connection with this registration statement, or any registration statement for this offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933, including specifically, but without limitation, any and all amendments (including post-effective amendments) hereto and thereto; and we hereby ratify and confirm all that said attorneys and agents, or either of them, shall do or cause to be done by virtue thereof.

<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ Donald C. Wood</u> Donald C. Wood	President, Chief Executive Officer and Trustee (principal executive officer)	June 16, 2009
<u>/s/ Andrew P. Blocher</u> Andrew P. Blocher	Senior Vice President and Chief Financial Officer and Treasurer (principal financial and accounting officer)	June 16, 2009
<u>/s/ Joseph S. Vassalluzzo</u> Joseph S. Vassalluzzo	Non-Executive Chairman	June 16, 2009
<u>/s/ Jon E. Bortz</u> Jon E. Bortz	Trustee	June 16, 2009
<u>/s/ David W. Faeder</u> David W. Faeder	Trustee	June 16, 2009
<u>/s/ Kristin Gamble</u> Kristin Gamble	Trustee	June 16, 2009
<u>/s/ Gail P. Steinel</u> Gail P. Steinel	Trustee	June 16, 2009
<u>/s/ Warren M. Thompson</u> Warren M. Thompson	Trustee	June 16, 2009