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As filed with the Securities and Exchange Commission on August 19, 2014

Registration No. 333-

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

Form S-11
FOR REGISTRATION UNDER THE SECURITIES ACT OF 1933
OF SECURITIES OF CERTAIN REAL ESTATE COMPANIES

WHEELER REAL ESTATE INVESTMENT TRUST, INC.
(Exact Name of Registrant as Specified in Governing Investments)

Riversedge North
2529 Virginia Beach Blvd., Suite 200
Virginia Beach, Virginia 23452
(757) 627-9088
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

CT Corporation System
111 Eighth Avenue
New York, New York 10011
(800) 624-0909
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

With copies to:

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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

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, 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 post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If delivery of the prospectus is expected to be made pursuant to Rule 434, 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 ☒

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities To Be Registered	Proposed Aggregate Offering Price(1)	Amount of Registration Fee
Units, each Unit consisting of five shares of Series B Preferred Stock, without par value per share, and six Warrants each to purchase one share of Common Stock, par value $0.01 per share(2)	$17,250,000	
Series B Preferred Stock included as part of the Units(3)	—	—
Warrants included as part of the Units(4)	—	— (5)
Common Stock Issuable Upon Conversion of the Series B Preferred Stock(6)	—	—
Common Stock Issuable upon exercise of the Warrants(7) (8)	$4,554,000	
Total	$21,804,000	$2,809

(1) Estimated solely for purposes of calculating the registration fee in accordance with Rule 457(o) under the Securities Act of 1933, as amended, or the Securities Act.
(2) Includes $2,250,000 Units that may be purchased by the underwriters to cover over-allotments, if any.
(3) We are registering 690,000 shares of Series B Preferred Stock hereunder, including 90,000 shares of Series B Preferred Stock to cover over-allotments, if any.
(4) We are registering hereunder Warrants to purchase 828,000 shares of common stock hereunder, including Warrants to purchase 108,000 shares of common stock to cover over-allotments, if any.
(5) No separate registration fee required pursuant to Rule 457(g) of the Securities Act.
(6) No separate registration fee required pursuant to Rule 457 (i) of the Securities Act.
(7) In accordance with Rule 457(g), the registration fee is calculated assuming an exercise price of $5.50 per share, which is the highest of (i) the price at which the warrants may be exercised; (ii) the offering price of securities of the same class included in the registration statement; and (iii) the price of securities of the same

class, as determined pursuant to Rule 457(c).

(8) Pursuant to Rule 416 of the Securities Act, such number of shares of common stock registered hereby also shall include an indeterminate number of shares of common stock that may be issued in connection with stock splits, stock dividends, recapitalizations or similar events or adjustments in the number of shares issuable as provided in the Warrants and the rights, preferences and limitations of the Series B Preferred Stock.

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

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The information in this prospectus is not complete and may be changed. No person may sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED AUGUST 19, 2014

PROSPECTUS

WHEELER
REAL ESTATE INVESTMENT TRUST

120,000 Units Consisting of 600,000 Shares of Series B Preferred Stock and Warrants to Purchase 720,000 Shares of Common Stock

We are offering of 600,000 shares of our Series B Preferred Stock, without par value per share ("Series B Preferred Stock"), and warrants ("Warrants") to purchase 720,000 shares of our common stock, $0.01 par value per share, in this offering. This prospectus also covers the shares of common stock that are issuable from time to time upon exercise of the Warrants and the conversion of the Series B Preferred Stock. The Series B Preferred Stock and the Warrants will be sold in units ("Units") with each Unit consisting of (i) five shares of Series B Preferred Stock, and (ii) six Warrants, each to purchase one share of common stock, exercisable by the holder at an exercise price of $5.50 per share. The Warrants expire on April 29, 2019. Units will not be issued or certificated. The shares of Series B Preferred Stock and the Warrants are immediately detachable and will be issued separately. The Series B Preferred Stock will rank on parity with the outstanding shares of our Series A Preferred Stock and senior to our common stock with respect to payment of dividends and distribution of amounts upon liquidation, dissolution or winding up. Holders of our Series B Preferred Stock will have no voting rights, except as required by law.

Our common stock trades on the Nasdaq Stock Market under the symbol "WHLR." The Series B Preferred Stock trades on the Nasdaq Stock Market under the symbol "WHLRP." The Warrants trade on the Nasdaq Stock Market under the symbol "WHLRW." On August 18, 2014, as reported on the Nasdaq Stock Market, the last reported sale price of our common stock was $4.95 per share, the last reported sale price of the Series B Preferred Stock was $24.95 per share, and the last reported sale price of the Warrants was $.76 per Warrant. We are an "emerging growth company" as that term is used in the Jumpstart Our Business Startup Act of 2012.

Investing in our securities involves significant risks. You should carefully read and consider "Risk Factors" beginning on page 34 of this prospectus before investing in our securities.

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

	Per Unit	Total
Public offering price	$	$15,000,000
Selling commissions	$	$ 1,050,000
Proceeds, before expenses, to us	$	$13,950,000

The Units are being offered through the underwriters on a firm commitment basis. We have granted the underwriters a 45-day option to purchase up to additional 90,000 shares of Series B Preferred Stock at a price of and/or 108,000 Warrants at a price of $ per Warrant, solely to cover over-allotments, if any. It is expected that delivery of the Units will be made in New York, New York on or about , 2014. See "Underwriting."

Joint Book-Running Managers

Maxim Group LLC **Newbridge Securities Corporation**

The date of this prospectus is , 2014.

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You should rely only on the information contained in or incorporated by reference into this prospectus, in any free writing prospectus prepared by us or information to which we have referred you. We have not, and the underwriters have not, authorized any dealer, salesperson or other person to provide you with different or additional information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not, and the underwriters are not, making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information contained in or incorporated by reference into this prospectus and any free writing prospectus prepared by us is accurate only as of their respective dates or on the date or dates which are specified in these documents. Our business, financial condition, liquidity, results of operations and prospects may have changed since those dates.

PROSPECTUS SUMMARY

You should read the following summary together with the more detailed information regarding our company and the historical and pro forma financial statements appearing elsewhere in this prospectus, including under the caption "Risk Factors." References in this prospectus to "we," "our," "us" and "our company" refer to Wheeler Real Estate Investment Trust, Inc., a Maryland corporation, together with our consolidated subsidiaries, including Wheeler REIT, L.P., a Virginia limited partnership, of which we are the sole general partner (our "Operating Partnership"). Unless otherwise indicated, the information contained in this prospectus is as of June 30, 2014 and assumes: (1) the closing of the 2014 Completed Acquisitions and the Contemplated Acquisitions; and (2) the issuance of (a) 600,000 shares of Series B Preferred Stock for per share and (b) the issuance of Warrants to purchase 720,000 shares of our common stock and the application of the proceeds as described herein. We have not assumed the exercise of the underwriters' over-allotment option or the issuance of shares of common stock upon conversion of the Series B Preferred Stock or exercise of the Warrants. For meanings of all defined terms used herein, please refer to the Glossary.

Overview

We are a Maryland corporation formed with the principal objective of acquiring, financing, developing, leasing, owning and managing income producing assets such as strip centers, neighborhood centers, grocery-anchored centers, community centers and free-standing properties. We have also begun to acquire undeveloped properties that we intend to develop into retail properties. Our strategy is to opportunistically acquire and reinvigorate well-located, potentially dominant retail properties in secondary and tertiary markets that generate attractive risk-adjusted returns. We target competitively protected properties in communities that have stable demographics and have historically exhibited favorable trends, such as strong population and income growth. We generally lease our properties to national and regional retailers that offer consumer goods and generate regular consumer traffic. We believe our tenants carry goods that are less impacted by fluctuations in the broader U.S. economy and consumers' disposable income, generating more predictable property-level cash flows.

We currently own a portfolio consisting of 30 properties including 20 retail shopping centers, 6 free-standing retail properties, and one office property, totaling 1,577,014 net rentable square feet of which approximately 94% were leased as of June 30, 2014. Our portfolio also includes three undeveloped properties that we acquired on August 15, 2014 and intend to develop.

We believe the current market environment creates a substantial number of favorable investment opportunities with attractive yields on investment and significant upside potential in terms of income and gain. We believe the markets we plan to pursue in the Northeast, Mid-Atlantic, Southeast and Southwest have strong demographics and dynamic, diversified economies that will continue to generate jobs and future demand for commercial real estate. We anticipate that the depth and breadth of our real estate experience allows us to capitalize on revenue-enhancing opportunities in our portfolio and source and execute new acquisition and development opportunities in our markets, while maintaining stable cash flows throughout various business and economic cycles.

Jon S. Wheeler, our Chairman and President, has 32 years of experience in the real estate sector with particular experience in strategic financial and market analyses and assessments of new or existing properties to maximize returns. We have an integrated team of professionals with experience across all stages of the real estate investment cycle.

We were organized as a Maryland corporation on June 23, 2011 and elected to be taxed as a real estate investment trust ("REIT") beginning with our taxable year ending December 31, 2012. We conduct substantially all of our business through our Operating Partnership. We are structured as an UPREIT, which means that we will own most of our properties through our Operating Partnership and its subsidiaries. As an UPREIT, we may

be able to acquire properties on more attractive terms from sellers who can defer tax obligations by contributing properties to our Operating Partnership in exchange for Operating Partnership units, which will be redeemable for cash or exchangeable for shares of our common stock at our election.

WHLR Management, LLC (our "Administrative Service Company"), which is wholly owned by Mr. Wheeler, provides administrative services to our company. Pursuant to the terms of an administrative services agreement between our Administrative Service Company and us, our Administrative Service Company is responsible for identifying targeted real estate investments; handling the disposition of the real estate investments our board of directors chooses to sell; and administering our day-to-day business operations, including but not limited to, leasing duties, property management, payroll and accounting functions. We also benefit from Mr. Wheeler's partially or wholly owned related business and platform that specializes in retail real estate investment and management. Mr. Wheeler's organization includes (i) Wheeler Interests, LLC, an acquisition and asset management firm, (ii) Wheeler Real Estate, LLC, a real estate leasing, management and administration firm, (iii) Wheeler Capital, LLC, a capital investment firm specializing in venture capital, financing, and small business loans, (iv) Site Applications, LLC, a full service facility company equipped to handle all levels of building maintenance and (v) TESR, LLC, a tenant coordination company specializing in tenant relations and community events (collectively, our "Services Companies"). By December 31, 2014, we anticipate that we will acquire the Services Companies to bring these services in-house and become a self-managed REIT. Our headquarters is located at Riversedge North, 2529 Virginia Beach Boulevard, Suite 200, Virginia Beach, Virginia 23452. Our telephone number is (757) 627-9088. Our website is located at WHLR.us. Our Internet website and the information contained therein or connected thereto do not constitute a part of this prospectus or any amendment or supplement hereto.

Business and Growth Strategies

Our strategy is to opportunistically acquire and reinvigorate well-located, potentially dominant retail properties in secondary and tertiary markets that generate attractive risk-adjusted returns. Specifically, we intend to pursue the following strategies to achieve these objectives:

- ***Maximize value through proactive asset management.*** We believe our market expertise, targeted leasing strategies and proactive approach to asset management will enable us to maximize the operating performance of our portfolio. We will continue to implement an active asset management program to increase the long-term value of each of our properties. This may include expanding existing tenants, re-entitling site plans to allow for additional outparcels, which are small tracts of land used for free-standing development not attached to the main buildings, and repositioning tenant mixes to maximize traffic, tenant sales and percentage rents. As we grow our portfolio, we will seek to maintain a diverse pool of assets with respect to both geographic distribution and tenant mix, helping to minimize our portfolio risk. We will utilize our experience and market knowledge to effectively allocate capital to implement our investment strategy. We continually monitor our markets for opportunities to selectively dispose of properties where returns appear to have been maximized and redeploy proceeds into new acquisitions that have greater return prospects.
- ***Pursue value oriented investment strategy targeting properties fitting within our acquisition profile.*** We believe the types of retail properties we seek to acquire will provide better risk-adjusted returns compared to other properties in the retail asset class, as well as other property types in general, due to the anticipated improvement in consumer spending habits resulting from a strengthening economy coupled with the long-term nature of the underlying leases and predictability of cash flows. We will acquire and develop retail properties, including development properties, based on identifying market and property characteristics. We will acquire retail properties based on identified market and property characteristics, including:
    - *Property type.* We focus our investment strategy on income producing assets such as strip centers, neighborhood centers, grocery-anchored centers, community centers, free-standing retail

properties and undeveloped land that can be developed for such purposes. We will target these types of properties because they tend or have the opportunity to be more focused on consumer goods as opposed to enclosed malls, which we believe are more oriented to discretionary spending that is susceptible to cyclical fluctuations.

- Strip center. A strip center is an attached row of stores or service outlets managed as a coherent retail entity, with on-site parking usually located in front of the stores. Open canopies may connect the store fronts, but a strip center does not have enclosed walkways linking the stores. A strip center may be configured in a straight line or have an "L" or "U" shape.
- Neighborhood centers. A neighborhood center is designed to provide convenience shopping for the day-to-day needs of consumers in the immediate neighborhood. Neighborhood centers are often anchored by a supermarket or drugstore. The anchors are supported by outparcels typically occupied by restaurants, fast food operators, financial institutions and in-line stores offering various products and services ranging from soft goods, healthcare and electronics.
- Community centers. A community center typically offers a wider range of apparel and other soft goods relative to a neighborhood center and in addition to supermarkets and drugstores, can include discount department stores as anchor tenants.
- Free-standing properties. A free-standing property constitutes any building that is typically occupied by a single tenant. The lease terms are generally structured as triple-net with the tenant agreeing to pay rent as well as all taxes, insurance and maintenance expenses that arise from the use of the property.
- Development properties. In acquiring undeveloped land for development, we attempt to select properties in geographic locations that are similar to the markets in which we already operate, which improves our ability to identify the potential tenant pool from a leasing perspective and to manage the property once developed.

- *Anchor tenant type.* We will target properties with anchor tenants that offer consumer goods that are less impacted by fluctuations in consumers' disposable income. We believe nationally and regionally recognized anchor tenants that offer consumer goods provide more predictable property-level cash flows as they are typically higher credit quality tenants that generate stable revenues. We feel these properties will act as a catalyst for incremental leasing demand through increased property foot traffic. We will identify the credit quality of our anchor tenants by conducting a thorough analysis including, but not limited to, a review of tenant operating performance, liquidity and balance sheet strength.
- *Lease terms.* In the near term, we intend to acquire properties that feature one or more of the following characteristics in their tenants' lease structure: properties with long-term leases (10 years remaining on the primary lease term) for anchor tenants; properties under triple-net leases, which are leases where the tenant agrees to pay rent as well as all taxes, insurance and maintenance expenses that arise from the use of the property thereby minimizing our expenses; and properties with leases which incorporate gross percentage rent and/or rental escalations that act as an inflation hedge while maximizing operating cash flows. As a longer-term strategy, we will look to acquire properties with shorter-term lease structures (2-3 years) for in-line tenants, which are tenants that rent smaller spaces around the anchor tenants within a property, that have below market rents that can be renewed at higher market rates.
- *Geographic markets and demographics.* We plan to seek investment opportunities throughout the United States; however, we will focus on the Northeast, Mid-Atlantic, Southeast and Southwest, which are characterized by attractive demographic and property fundamental trends. We will target competitively protected properties in communities that have stable demographics and have

historically exhibited favorable trends, such as strong population and income growth. These communities will also have a combination of the following characteristics:

- established trade areas with high barriers to entry,
- high population base with expected annual growth rate higher than the national average,
- high retail sales per square foot compared to the national average,
- above average household income and expected growth,
- above-average household density,
- favorable infrastructure such as schools to retain and attract residents, and
- below-average unemployment rate.

- ***Capitalize on network of relationships to pursue transactions.*** We plan to pursue transactions in our target markets through the relationships we have developed. Leveraging these relationships, we will target property owners that our management team has transacted with previously, many of whom, we feel, will consider us a preferred counterparty due to our track record of completing fair and timely transactions. We believe this dynamic gives us a competitive advantage in negotiating and executing favorable acquisitions.
- ***Leverage our experienced property management platform.*** Our executive officers, together with the management teams of our Services Companies, have over 150 years of combined experience managing, operating, developing and leasing retail properties. We consider our Services Companies to be in the best position to oversee the day-to-day operations of our properties, which in turn helps us service our tenants. We feel this generates higher renewal and occupancy rates, minimizes rent interruptions, reduces renewal costs and helps us achieve stronger operating results. Along with this, a major component of our leasing strategy is to cultivate long-term relationships through consistent tenant dialogue in conjunction with a proactive approach to meeting the space requirements of our tenants.
- ***Grow our platform through a comprehensive financing strategy.*** We believe our capital structure will provide us with sufficient financial capacity and flexibility to fund future growth. Based on our current capitalization, we believe we will have access to multiple sources of financing that are currently unavailable to many of our private market peers or overleveraged public competitors, which will provide us with a competitive advantage. Over time, these financing alternatives may include follow-on offerings of our common stock, unsecured corporate level debt, preferred equity and credit facilities. We have a ratio of debt to total market capitalization, which includes common stock and Series B preferred stock outstanding, of approximately 59%. Although we are not required by our governing documents to maintain this ratio at any particular level, our board of directors will review our ratio of debt to total capital on a quarterly basis, with the goal of maintaining a reasonable rate consistent with our expected ratio of debt to total market capitalization going forward. We believe this strategy will enable us to continue to grow our asset base well into the future.

Our Competitive Strengths

We believe the following competitive strengths distinguish us from other owners and operators of commercial real estate and will enable us to take advantage of new acquisition and development opportunities, as well as growth opportunities within our portfolio:

- ***Cornerstone Portfolio of Retail Properties.*** We have acquired and developed a portfolio of properties located in business centers in Virginia, North Carolina, Florida, Georgia, South Carolina, Kentucky, Oklahoma, Tennessee, and New Jersey. We believe many of our properties currently achieve rental and

occupancy rates equal to or above those typically prevailing in their respective markets due to their desirable and competitively advantageous locations within their submarkets, as well as our hands-on management approach. The retail properties comprising our portfolio fit within our property acquisition profile of income producing assets such as strip centers, neighborhood centers, grocery-anchored centers, community centers and free-standing retail properties. These properties are located in local markets that exhibit stable demographics and have historically exhibited favorable trends, such as strong population and income growth. These properties represent the initial base of the larger portfolio that we expect to build over time.

- ***Experienced Management Team.*** Our executive officers and the members of the management teams of our Services Companies have significant experience in all aspects of the commercial real estate industry, specifically in our markets. They have overseen the acquisition or development and operation of more than 65 shopping centers, representing over 4 million rentable square feet of retail property, including all of the properties in our portfolio. Mr. Wheeler and the real estate professionals employed by our Services Companies have in-depth knowledge of our assets, markets and future growth opportunities, as well as substantial expertise in all aspects of leasing, asset and property management, marketing, acquisitions, redevelopment and facility engineering and financing, all of which we believe provides us with a significant competitive advantage.
- ***Access to a Pipeline of Acquisition and Leasing Opportunities.*** We believe that our market knowledge and our network of relationships with real estate owners, developers, brokers, national and regional lenders and other market participants provides us access to an ongoing pipeline of attractive acquisition and investment opportunities in and near our markets. In addition, we have a network of relationships with numerous national and regional tenants in our markets, many of whom currently are tenants in our retail buildings, which we expect will enhance our ability to retain and attract high quality tenants, facilitate our leasing efforts and provide us with opportunities to increase occupancy rates at our properties, thereby allowing us to maximize cash flows from our properties. We have successfully converted many of our strong relationships with our retail tenants into leasing opportunities at our properties.
- ***Broad Real Estate Expertise with Retail Focus.*** Our management team has experience and capabilities across the real estate sector with experience and expertise particularly in the retail asset class, which we believe provides for flexibility in pursuing attractive acquisition, development, and repositioning opportunities. Since varying market conditions create opportunities at different times across property types, we believe our expertise enables us to target relatively more attractive investment opportunities throughout economic cycles. In addition, our fully integrated platform with in-house development capabilities allows us to pursue development and redevelopment projects with multiple uses. We believe that our ability to pursue these types of opportunities differentiates us from many competitors in our markets.

Our Properties

Our Portfolio

At June 30, 2014, we owned twenty-three properties located in Virginia, North Carolina, South Carolina, Florida, Georgia, Oklahoma, Tennessee and New Jersey containing a total of approximately 1,294,572 rentable square feet of retail space, which we refer to as our portfolio. The following table presents an overview of our portfolio, based on information as of June 30, 2014.

Portfolio

Property	Location	Year Built/ Renovated	Number of Tenants	Net Rentable Square Feet	Percentage Leased	Annualized Base Rent	Annualized Base Rent per Leased Square Foot [1]
Amscot Building	Tampa, FL	2004	1	2,500	100.0%	$ 100,738	$ 40.30
Bixby Commons	Bixby, OK	2012	1	75,000	100.0	768,500	10.25
Clover Plaza	Clover, SC	1990	10	45,575	100.0	348,327	7.64
Forrest Gallery	Tullahoma, TN	1987	26	214,451	91.2	1,170,467	5.94
Harps At Harbor Point	Grove, OK	2012	1	31,500	100.0	364,432	11.57
Jenks Plaza	Jenks, OK	2007	5	7,800	100.0	140,152	17.97
Jenks Reasors	Jenks, OK	2011	1	81,000	100.0	912,000	11.26
Lumber River Village	Lumberton, NC	1985/1997-98 expansion 2004	12	66,781	100.0	497,466	7.45
Monarch Bank	Virginia Beach, VA	2002	1	3,620	100.0	243,241	67.19
Perimeter Square	Tulsa, OK	1982-1983	8	58,277	95.7	674,973	12.10
Riversedge North	Virginia Beach, VA	2007	1	10,550	100.0	294,056	27.87
Shoppes at T J Maxx	Richmond, VA	1982/1999	15	93,552	88.8	933,555	11.24
South Square	Lancaster, SC	1992	5	44,350	89.9	316,650	7.95
Starbucks/Verizon	Virginia Beach, VA	1985/2012	2	5,600	100.0	185,695	33.16
St. George Plaza	St. George, SC	1982	6	59,279	85.8	353,783	6.96
Surrey Plaza	Hawkinsville, GA	1983	5	42,680	100.0	290,745	6.81
Tampa Festival	Tampa, FL	1965/2009/2012	22	137,987	100.0	1,211,410	8.78
The Shoppes at Eagle Harbor	Carrollton, VA	2009	7	23,303	94.5	445,386	19.11
Twin City Commons	Batesburg-Leesville, SC	1998/2002	5	47,680	100.0	449,194	9.42
Walnut Hill Plaza	Petersburg, VA	1959/2006/2008	12	89,907	87.5	631,969	8.03
Waterway Plaza	Little River, SC	1991	9	49,750	97.6	424,313	8.74
Westland Square	West Columbia, SC	1986/1994	6	62,735	83.1	414,086	7.94
Winslow Plaza	Sicklerville, NJ	1990/2009	16	40,695	94.1	581,003	14.70
Total Portfolio			177	1,294,572	94.7%	$11,752,141	$ 9.59

(1) Annualized base rent per leased square foot excludes the impact of tenant concessions.

The following properties were acquired subsequent to June 30, 2014 (the "2014 Completed Acquisitions") or are under contract to be acquired (the "Contemplated Acquisitions"). We used a portion of the proceeds from our April 2014 preferred stock offering to fund the 2014 Completed Acquisitions and we plan to use a portion of the funds remaining from our April 2014 preferred stock offering and those generated in this offering to fund the Contemplated Acquisitions and other future acquisitions.

Property	Type(1)	Location	Year Built/ Renovated	Number of Tenants	Net Rentable Square Feet	Percentage Leased	Annualized Base Rent	Annualized Base Rent per Leased Square Foot (3)
Cypress Shopping Center (2)	A	Boiling Springs, SC	1999	14	80,435	94.4%	$ 774,736	$ 10.30
Port Crossing (2)	A	Harrisonburg, VA	1999/2009	7	65,365	88.7(4)	716,226	12.35
Harrodsburg Marketplace (2)	A	Harrodsburg, KY	1995	8	60,048	97.0	438,106	7.52
LaGrange Marketplace (2)	A	LaGrange, GA	1985	12	76,594	92.0	351,382	4.98
DF I-Courtland, LLC (2)	A	Courtland, VA	(5)	(5)	(5)	(5)	(5)	(5)
DF I-Moyock, LLC (2)	A	Moyock, NC	(5)	(5)	(5)	(5)	(5)	(5)
Edenton Commons (2)	A	Edenton, NC	(5)	(5)	(5)	(5)	(5)	(5)
Completed Acquisition Total				41	282,442	92.8%	2,280,450	8.79
Brook Run	B	Richmond, VA	1990	19	147,738	92.1	1,620,235	11.91
Freeway Junction	B	Stockbridge, GA	1987	18	156,834	97.7	951,114	6.20
Northeast Plaza	B	Lumberton, NC	2000	9	54,511	95.4	474,690	9.13
Contemplated Acquisition Total				46	413,594	95.1%	3,046,039	9.08
Total				87	641,525	94.0%	5,326,489	8.83

(1) A= 2014 Completed Acquisition; B= Contemplated Acquisition
(2) Acquisition closed subsequent to June 30, 2014.
(3) Annualized base rent per leased square foot includes the impact of tenant concessions.
(4) Occupancy rate includes the impact of a new lease signed with the Virginia ABC board to lease 2,400 square feet with annual rent of $39,600 beginning November 1, 2014 and a tenant relocation and expansion currently in process.
(5) This information is not available because the property is undeveloped.

Property	Type(1)	Outstanding Balance	Interest Rate	Maturity Date	Amortization Period (Mths)	Annual Debt Service	Balance At Maturity
Cypress Shopping Center	A	$ 6,625,000	4.73%	July 2024	360	$ 414,000	$ 5,357,900
Port Crossing	A	6,600,000	4.84%	July 2024	360	$ 412,800	$ 5,337,700
Harrodsburg Marketplace	A	3,725,000	4.55%	August 2024	360	$ 229,200	$ 3,015,800
LaGrange Marketplace	A	2,334,700	5.00%	February 2020	360	$ 193,200	$ 2,268,200
DF I-Courtland	A	119,500	6.50%	January 2019	120	$ 16,800	$ 73,300
DF I-Moyock	A	564,100	5.00%	July 2019	60	$ 128,400	$ —
Edenton Commons	A	2,150,000	3.75%	September 2014	240	$ 178,800	$ 2,127,700
Brook Run	B	16,704,800	5.00%	July 2015	360	$1,159,200	$15,963,200
Northeast Plaza	B	3,182,900	6.54%	April 2021	360	$ 403,200	$ 2,369,600
Freeway Junction (2)	B	8,150,000	4.75%	September 2024	360	$ 510,000	$ 6,595,300
		$50,156,000					

(1) A=2014 Completed Acquisition, B=Contemplated Acquisition
(2) Loan amount and terms estimated for the purposes of this table. Final terms will be determined at closing.

Brook Run

We have the option to acquire Brook Run by exercising our rights under a contribution and subscription agreement we expect to enter into with the property's owners for an aggregate purchase price, including the assumption of debt, of $19,196,850. The contribution and subscription agreement is expected to replace a purchase and sale agreement we previously entered into to acquire the property. Jon Wheeler is the managing member of the entity that currently owns Brook Run and owns 2.1% of such entity. We have not used the proceeds from our last offering to acquire Brook Run because we have not yet completed the loan assumption process.

Brook Run is a 147,738 square foot community shopping center built in 1990 and anchored by a Martin's grocery store. The property is located in Richmond, Virginia and is occupied by 19 primarily retail and restaurant tenants.

Martin's

Martin's leases 58,473 square feet of net rentable square feet, representing 39.58% of the net rentable square feet of Brook Run.

Annual rent under the Martin's lease is $497,021.

The Martin's lease expires on August 31, 2015 and has four remaining renewal options for five years.

Fitness Evolution

Fitness Evolution leases 32,000 square feet of net rentable square feet, representing 21.66% of the net rentable square feet of Brook Run.

Annual rent under the Fitness Evolution lease is $316,000.

The Fitness Evolution lease expires on January 31, 2023 and has four remaining renewal option for five years.

The following table sets forth the percentage leased and annualized rent per leased square foot for Brook Run as of the indicated dates:

Date	Percent Leased	Annualized Rent Per Leased Square Foot (1)
December 31, 2013	92.06%	$ 11.55
December 31, 2012	95.03	11.79
December 31, 2011	85.01	10.92
December 31, 2010	87.93	12.74
December 31, 2009	96.61	12.77

(1) Annualized rent per leased square foot is calculated by dividing (i) annualized base rent, by (ii) square footage leased.

The following table sets forth the lease expirations for leases in place at Brook Run Commons as of June 30, 2014, assuming that tenants do not exercise any renewal options or early termination options:

Lease Expiration Year	Number of Expiring Leases	Square Footage of Expiring Leases	Percentage of Property Leased Square Feet	Annualized Base Rent (in 000s) [1]	Percentage of Property Annualized Base Rent
Available	—	11,732	7.94%	$ —	— %
2014	3	2,755	1.86	48	2.96
2015	3	61,388	41.56	557	34.38
2016	3	5,240	3.55	97	5.99
2017	4	17,499	11.84	248	15.31
2018	3	3,626	2.45	65	4.01
2019	1	11,979	8.11	220	13.59
2020	1	1,519	1.03	33	2.04
2021	—	—	—	—	—
2022	—	—	—	—	—
2023 and thereafter	1	32,000	21.66	352	21.72
Total	19	147,738	100.00%	$ 1,620	100.00%

(1) Annualized rent is calculated by multiplying (i) base rental payments for the month ended June 30, 2014 for the leases expiring during the applicable period, by (ii) 12.

Northeast Plaza

We have the option to acquire Northeast Plaza by exercising our rights under a contribution and subscription agreement we expect to enter into with the property's owners for a total purchase price, including the assumption of debt, of $4,894,700. The contribution and subscription agreement is expected to replace a purchase and sale agreement we previously entered into to acquire the property. Jon Wheeler is the managing member of the entity that currently owns Northeast Plaza and he owns 4.5% of such entity. We did not use the proceeds from our last offering to acquire Northeast Plaza because we have not yet completed the loan assumption process.

Northeast Plaza is a 54,511 square foot neighborhood shopping center built in 2000 and anchored by a Food Lion. The property is located in Lumberton, North Carolina and is occupied by 9 primarily retail and restaurant tenants.

Food Lion

Food Lion leases 33,000 square feet of net rentable square feet, representing 60.54% of the net rentable square feet of Northeast Plaza.

Annual rent under the Food Lion lease is $292,050.

The Food Lion lease expires on December 12, 2020 and has four remaining renewal options for five years.

Dollar General

Dollar General leases 9,200 square feet of net rentable square feet, representing 16.88% of the net rentable square feet of Northeast Plaza.

Annual rent under the Dollar General lease is $50,000.

The Dollar General lease expires on January 31, 2015 and has one remaining renewal option for five years.

The following table sets forth the percentage leased and annualized rent per leased square foot for Northeast Plaza as of the indicated dates:

Date	Percent Leased	Annualized Rent Per Leased Square Foot (1)
December 31, 2013	95.35%	$ 9.13
December 31, 2012	92.83	8.92
December 31, 2011	92.83	8.94
December 31, 2010	92.83	8.97
December 31, 2009	92.83	8.94

(1) Annualized rent per leased square foot is calculated by dividing (i) annualized base rent, by (ii) square footage leased.

The following table sets forth the lease expirations for leases in place at Northeast Plaza as of June 30, 2014, assuming that tenants do not exercise any renewal options or early termination options:

Lease Expiration Year	Number of Expiring Leases	Square Footage of Expiring Leases	Percentage of Property Leased Square Feet	Annualized Base Rent (in 000s) (1)	Percentage of Property Annualized Base Rent
Available	—	2,535	4.65%	$ —	— %
2014	—	—	—	—	—
2015	4	13,400	24.58	105	22.11
2016	1	1,000	1.83	14	2.95
2017	1	1,400	2.57	18	3.79
2018	1	1,376	2.52	21	4.42
2019	—	—	—	—	—
2020	1	33,000	60.54	292	61.47
2021	1	1,800	3.31	25	5.26
2022	—	—	—	—	—
2023 and thereafter	—	—	—	—	—
Total	9	54,511	100.00%	$ 475	100.00%

(1) Annualized rent is calculated by multiplying (i) base rental payments for the month ended June 30, 2014 for the leases expiring during the applicable period, by (ii) 12.

Freeway Junction

We have the right to acquire Freeway Junction through the assumption of a purchase contract by a wholly owned subsidiary of our Operating Partnership. Pursuant to the purchase contract we have the right to purchase Freeway Junction for a sales price of $10,450,000.

Freeway Junction is a 156,834 square foot shopping center built in 1987 and anchored by a Goodwill store, a Northern Tool & Equipment store, an Ollie's Bargain Outlet, a Farmer Home Furniture store and a Grand Furniture store. The property is located in Stockbridge, Georgia and is occupied by 18 primarily retail and restaurant tenants.

Goodwill

Goodwill leases 29,788 square feet of net rentable square feet, representing 18.99% of the net rentable square feet of Freeway Junction.

Annual rent under the Goodwill lease is $223,410.

The Goodwill lease expires on July 31, 2016 and has one remaining renewal options for five years.

Northern Tool

Northern Tool leases 29,270 square feet of net rentable square feet, representing 18.66% of the net rentable square feet of Freeway Junction.

Annual rent under the Northern Tool lease is $256,113.

The Northern Tool lease expires on October 31, 2015 and has two remaining renewal options for five years.

Ollie's

Ollie's leases 25,575 square feet of net rentable square feet, representing 16.31% of the net rentable square feet of Freeway Junction.

Annual rent under the Ollie's lease is $84,653.

The Ollie's lease expires on August 31, 2021 and has three remaining renewal options for five years.

Farmer Home Furniture

Farmer Home Furniture leases 20,152 square feet of net rentable square feet, representing 12.85% of the net rentable square feet of Freeway Junction.

Annual rent under the Farmer Home Furniture lease is $84,034.

The Farmer Home Furniture lease expires on March 31, 2016 and has no remaining renewal options available.

Grand Furniture

Grand Furniture leases 15,730 square feet of net rentable square feet, representing 10.03% of the net rentable square feet of Freeway Junction.

Annual rent under the Grand Furniture lease is $45,000.

The Grand Furniture lease expires on February 28, 2019 and has one remaining renewal option for five years.

The following table sets forth the percentage leased and annualized rent per leased square foot for Freeway Junction as of the indicated dates:

Date	Percent Leased	Annualized Rent Per Leased Square Foot (1)
December 31, 2013	93.7%	$ 6.58
December 31, 2012	95.0	6.38
December 31, 2011	97.5	6.28
December 31, 2010(2)	N/A	N/A
December 31, 2009(2)	N/A	N/A

(1) Annualized rent per leased square foot is calculated by dividing (i) annualized base rent, by (ii) square footage leased.
(2) Information unavailable for these periods.

The following table sets forth the lease expirations for leases in place at Freeway Junction as of June 30, 2014, assuming that tenants do not exercise any renewal options or early termination options:

Lease Expiration Year	Number of Expiring Leases	Square Footage of Expiring Leases	Percentage of Property Leased Square Feet	Annualized Base Rent (in 000s) [1]	Percentage of Property Annualized Base Rent
Available	—	3,535	2.25%	$ —	— %
2014	—	—	—	—	—
2015	5	40,930	26.10	312	32.81
2016	8	67,039	42.75	464	48.79
2017	2	4,025	2.57	32	3.36
2018	1	—	—	14	1.47
2019	1	15,730	10.03	45	4.73
2020	—	—	—	—	—
2021	1	25,575	16.30	84	8.84
2022	—	—	—	—	—
2023 and thereafter	—	—	—	—	—
Total	18	156,834	100.00%	$ 951	100.00%

(1) Annualized rent is calculated by multiplying (i) base rental payments for the month ended June 30, 2014 for the leases expiring during the applicable period, by (ii) 12.

Port Crossing

On July 3, 2014, we acquired all of the membership interests of PCSC Associates, LLC, the owner of Port Crossing, for a total purchase price consisting of cash and the assumption of debt in the aggregate amount of $8,566,761 and Operating Partnership common units valued at $744,639. Jon Wheeler was the managing member of PCSC Associates, LLC, prior to its acquisition by us. Port Crossing is a 65,365 square foot neighborhood shopping center built in two phases in 1999 and 2009 and anchored by a Food Lion. The property is located in Harrisonburg, Virginia and is occupied by 7 primarily retail and restaurant tenants. The center recently signed a five year lease with the Virginia ABC Board for a new 2,400 square foot location at the property with annual rent of $39,600 beginning November 1, 2014. Occupancy at the property will increase to 88.7% once the ABC store opens and another relocation currently underway is completed.

Food Lion

Food Lion leases 45,000 square feet of net rentable square feet, representing 68.84% of the net rentable square feet of Port Crossing.

Annual rent under the Food Lion lease is $517,500.

The Food Lion lease expires on August 31, 2018 and has four remaining renewal options for five years.

The following table sets forth the percentage leased and annualized rent per leased square foot for Port Crossing as of the indicated dates:

Date	Percent Leased	Annualized Rent Per Leased Square Foot [1]
December 31, 2013	82.46%	$ 12.55
December 31, 2012	90.57	13.57
December 31, 2011	88.24	13.47
December 31, 2010	90.12	13.45
December 31, 2009	93.68	12.40

(1) Annualized rent per leased square foot is calculated by dividing (i) annualized base rent, by (ii) square footage leased.

The following table sets forth the lease expirations for leases in place at Port Crossing as of June 30, 2014, assuming that tenants do not exercise any renewal options or early termination options:

Lease Expiration Year	Number of Expiring Leases	Square Footage of Expiring Leases	Percentage of Property Leased Square Feet	Annualized Base Rent (in 000s) [1]	Percentage of Property Annualized Base Rent
Available	—	7,365	11.27%	$ —	— %
2014	1	250	0.38	5	0.70
2015	—	—	—	—	—
2016	1	1,160	1.77	22	3.07
2017	1	2,690	4.12	39	5.45
2018	1	45,000	68.84	518	72.35
2019	1	2,400	3.67	40	5.59
2020	1	1,200	1.84	20	2.79
2021	—	—	—	—	—
2022	2	5,300	8.11	72	10.05
2023 and thereafter	—	—	—	—	—
Total	8	65,365	100.00%	$ 716	100.00%

(1) Annualized rent is calculated by multiplying (i) base rental payments for the month ended June 30, 2014 for the leases expiring during the applicable period, by (ii) 12.

Cypress Shopping Center

On July 1, 2014, we purchased Cypress Shopping Center for $8,300,000. Cypress Shopping Center is an 80,435 square foot shopping center built in 1999 and anchored by a Bi-Lo grocery store. The property is located in Boiling Springs, South Carolina and is occupied by 14 primarily retail and restaurant tenants.

Bi-Lo

Bi-Lo leases 47,260 square feet of net rentable square feet, representing 58.76% of the net rentable square feet of Cypress.

Annual rent under the Bi-Lo lease is $453,714.

The Bi-Lo lease expires on March 31, 2018 and has six remaining renewal options for five years.

The following table sets forth the percentage leased and annualized rent per leased square foot for Cypress Shopping Center as of the indicated dates:

Date	Percent Leased	Annualized Rent Per Leased Square Foot [1]
December 31, 2013	91.7%	$ 10.40
December 31, 2012 [2]	N/A	N/A
December 31, 2011 [2]	N/A	N/A
December 31, 2010 [2]	N/A	N/A
December 31, 2009 [2]	N/A	N/A

(1) Annualized rent per leased square foot is calculated by dividing (i) annualized base rent, by (ii) square footage leased.
(2) Information unavailable for these periods.

The following table sets forth the lease expirations for leases in place at Cypress Shopping Center as of June 30, 2014, assuming that tenants do not exercise any renewal options or early termination options:

Lease Expiration Year	Number of Expiring Leases	Square Footage of Expiring Leases	Percentage of Property Leased Square Feet	Annualized Base Rent (in 000s) [1]	Percentage of Property Annualized Base Rent
Available	—	5,250	6.53%	$ —	— %
2014	1	1,400	1.74	19	2.45
2015	3	4,200	5.22	45	5.81
2016	2	9,400	11.69	72	9.29
2017	1	1,400	1.74	18	2.32
2018	5	55,310	68.76	569	73.42
2019	2	3,475	4.32	52	6.71
2020	—	—	—	—	—
2021	—	—	—	—	—
2022	—	—	—	—	—
2023 and thereafter	—	—	—	—	—
Total	14	80,435	100.00%	$ 775	100.00%

(1) Annualized rent is calculated by multiplying (i) base rental payments for the month ended June 30, 2014 for the leases expiring during the applicable period, by (ii) 12.

Harrodsburg Marketplace

On July 1, 2014, we purchased Harrodsburg Marketplace for $5,000,000. Harrodsburg Marketplace is a 60,048 square foot shopping center built in 1995 and anchored by a Kroger grocery store. The property is located in Harrodsburg, Kentucky and is occupied by 8 primarily retail and restaurant tenants.

Kroger

Kroger leases 36,158 square feet of net rentable square feet, representing 60.22% of the net rentable square feet of Harrodsburg Marketplace.

Annual rent under the Kroger lease is $255,036.

The Kroger lease expires on September 30, 2023 and has four remaining renewal options for five years.

The following table sets forth the percentage leased and annualized rent per leased square foot for Harrodsburg Marketplace as of the indicated dates:

Date	Percent Leased	Annualized Rent Per Leased Square Foot (1)
December 31, 2013	97.0%	$ 7.52
December 31, 2012 (2)	N/A	N/A
December 31, 2011 (2)	N/A	N/A
December 31, 2010 (2)	N/A	N/A
December 31, 2009 (2)	N/A	N/A

(1) Annualized rent per leased square foot is calculated by dividing (i) annualized base rent, by (ii) square footage leased.
(2) Information unavailable for these periods.

The following table sets forth the lease expirations for leases in place at Harrodsburg Marketplace as of June 30, 2014, assuming that tenants do not exercise any renewal options or early termination options:

Lease Expiration Year	Number of Expiring Leases	Square Footage of Expiring Leases	Percentage of Property Leased Square Feet	Annualized Base Rent (in 000s) (1)	Percentage of Property Annualized Base Rent
Available	—	1,800	3.00%	$ —	— %
2014	—	—	—	—	—
2015	1	1,800	3.00	13	2.88
2016	1	1,800	3.00	23	5.14
2017	—	—	—	—	—
2018	2	7,200	11.99	20	4.79
2019	—	—	—	—	—
2020	1	3,600	5.99	26	5.82
2021	—	—	—	—	—
2022	—	—	—	—	—
2023 and thereafter	3	43,848	73.02	356	81.37
Total	8	60,048	100.00%	$ 438	100.00%

(1) Annualized rent is calculated by multiplying (i) base rental payments for the month ended June 30, 2014 for the leases expiring during the applicable period, by (ii) 12.

LaGrange Marketplace

On July 25, 2014, we acquired all of the membership interests of LaGrange Associates, LLC, the owner of LaGrange Marketplace for a total purchase price consisting of cash and the assumption of debt in the aggregate amount of $3,202,830.28 and Operating Partnership common units valued at $492,169.72. Jon Wheeler was the Managing member of LaGrange Associates, LLC, prior to its acquisition by us.

LaGrange Marketplace is a 76,594 square foot shopping center built in 1985 and anchored by a Food Depot grocery store. The property is located in LaGrange, Georgia and is occupied by 12 primarily retail and restaurant tenants.

Food Depot

Food Depot leases 46,700 square feet of net rentable square feet, representing 60.97% of the net rentable square feet of LaGrange Marketplace.

Annual rent under the Food Depot lease is $140,100.

The Food Depot lease expires on April 30, 2018 and has three remaining renewal options for five years.

Rite Aid

Rite Aid leases 9,594 square feet of net rentable square feet, representing 12.53% of the net rentable square feet of LaGrange Marketplace.

Annual rent under the Rite Aid lease is $62,361.

The Rite Aid lease expires on January 28, 2022 and has two remaining renewal options for five years.

The following table sets forth the percentage leased and annualized rent per leased square foot for LaGrange Marketplace as of the indicated dates:

Date	Percent Leased	Annualized Rent Per Leased Square Foot (1)
December 31, 2013	92.0%	$ 4.96
December 31, 2012	86.6	4.56
December 31, 2011	84.6	4.41
December 31, 2010	84.6	4.38
December 31, 2009	82.6	4.19

(1) Annualized rent per leased square foot is calculated by dividing (i) annualized base rent, by (ii) square footage leased.

The following table sets forth the lease expirations for leases in place at LaGrange Marketplace as of June 30, 2014, assuming that tenants do not exercise any renewal options or early termination options:

Lease Expiration Year	Number of Expiring Leases	Square Footage of Expiring Leases	Percentage of Property Leased Square Feet	Annualized Base Rent (in 000s) (1)	Percentage of Property Annualized Base Rent
Available	—	6,100	7.96%	$ —	— %
2014	1	2,400	3.13	23	6.55
2015	—	—	—	—	—
2016	3	6,000	7.83	56	15.95
2017	1	1,200	1.57	15	4.28
2018	3	47,900	62.54	158	45.02
2019	3	3,400	4.44	37	10.54
2020	—	—	—	—	—
2021	—	—	—	—	—
2022	1	9,594	12.53	62	17.66
2023 and thereafter	—	—	—	—	—
Total	12	76,594	100.00%	$ 351	100.00%

(1) Annualized rent is calculated by multiplying (i) base rental payments for the month ended June 30, 2014 for the leases expiring during the applicable period, by (ii) 12.

DF I-Courtland, LLC

DF I-Courtland, LLC owns a 1.03 acre parcel of undeveloped real estate referred to as Courtland Commons that is located in Courtland, Virginia. We believe this parcel will accommodate a 8,400 square foot facility. We acquired the property on August 15, 2014 for approximately $893,900 from Development Fund I, LLC, an entity managed by Jon Wheeler. The property was acquired for future development purposes. No specific development plans exist at this time because we are considering numerous retail opportunities; however, the property is suitable for a retail center that is similar to our existing portfolio, and we intend to emphasize the development of this property for such purposes.

DF I-Moyock, LLC

DF I-Moyock, LLC owns a 1.28 acre parcel of undeveloped real estate referred to as Tulls Creek that is located in Moyock, North Carolina. We believe this parcel will accommodate a 9,000 square foot facility. We acquired the property on August 15, 2014 for approximately $908,100 from Development Fund I, LLC, an entity managed by Jon Wheeler. The property was acquired for future development purposes. No specific development plans exist at this time because we are considering numerous retail opportunities; however, the property is suitable for a retail center that is similar to our existing portfolio, and we intend to emphasize the development of this property for such purposes.

Edenton Commons

Edenton Commons is a 53.82 acre parcel of undeveloped real estate located in Edenton, North Carolina. We believe this parcel will accommodate a 225,000 square foot facility. We acquired the property on August 15, 2014 for approximately $2.40 million from Development Fund I, LLC, an entity managed by Jon Wheeler. The property was acquired for future development purposes. No specific development plans exist at this time because we are considering numerous retail opportunities; however, the property is suitable for a retail center that is similar to our existing portfolio, and we intend to emphasize the development of this property for such purposes.

Structure of Our Company

Our Operating Entities

Our Operating Partnership

Substantially all of our assets are held by, and our operations are conducted through, the Operating Partnership. As the sole general partner of the Operating Partnership, we generally have the exclusive power under the Amended and Restated Agreement of Limited Partnership of Wheeler REIT, L.P. (the "Partnership Agreement") to manage and conduct the business and affairs of the Operating Partnership, subject to certain limited approval and voting rights of the limited partners. Our board of directors will manage our business and affairs.

Because we conduct substantially all of our operations through the Operating Partnership, we are considered an UPREIT. UPREIT stands for "Umbrella Partnership Real Estate Investment Trust." An UPREIT is a REIT that holds all or substantially all of its properties through a partnership in which the REIT holds a general partner and/or limited partner interest generally based on the value of capital raised by the REIT through sales of its capital stock. Using an UPREIT structure may give us an advantage in acquiring properties from persons who may not otherwise sell their properties because of unfavorable tax results. Generally, a sale or contribution of property directly to a REIT is a taxable transaction to the selling property owner. In an UPREIT structure, a seller of a property who desires to defer taxable gain on the sale of his property may contribute the property to the UPREIT in exchange for limited partnership units in the partnership and defer taxation of gain until the seller later exchanges his limited partnership units on a one-for-one basis for REIT shares or for cash pursuant to the terms of the Partnership Agreement or the UPREIT sells the property.

Our Administrative Service Company

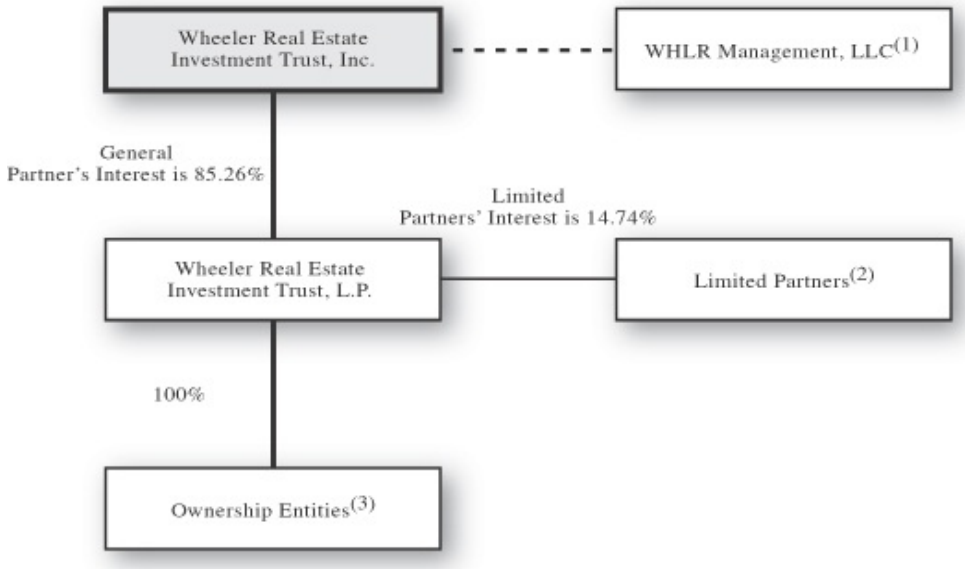
We entered into an Administrative Services Agreement with our Administrative Service Company, pursuant to which, our Administrative Service Company provides us with appropriate support personnel to assist our executive management team and performs certain services for us, subject to the oversight of our board of directors and our executive officers. We anticipate acquiring our Administrative Services Company and other Services Companies by December 31, 2014. Currently, our Administrative Service Company is responsible for, among other duties (1) performing and administering our day-to-day operations, (2) determining investment criteria in conjunction with our board of directors, (3) sourcing, analyzing and executing asset acquisitions approved by our board of directors, sales and financings, (4) performing asset management duties, (5) performing property management duties, (6) performing leasing duties, and (7) performing financial and accounting management. Our Administrative Service Company currently receives an administrative services fee of $740,000 per year plus $20,000 per year for each additional property we acquire subsequent to the completion of this offering. Additionally, Wheeler Real Estate, LLC receives a property management fee at a rate of 3% of each of our properties' annual gross revenue and Wheeler Interests, LLC receives an asset management fee at a rate of 2% of each of our properties' annual gross revenue. Additionally, we reimburse our Administrative Service Company for all reasonable out-of-pocket expenses incurred on our behalf, including but not limited to travel and general office expenses, such as copying and telephone usage. Our executive management team consists of our Chairman/Chief Executive Officer, Chief Financial Officer, and Secretary. Our Administrative Service Company pays the salaries of such officers. They are also eligible to receive additional compensation in the form of stock incentive awards granted under our 2012 Share Incentive Plan.

Our Development Company

We acquired Wheeler Development, LLC ("Wheeler Development") in January 2014 for nominal consideration from Jon Wheeler. Wheeler Development specializes in ground up development, redevelopment of mature centers, phase two developments for existing centers and build to suit projects for selecting tenants. Wheeler Development allows us to bring a wide range of development services in-house to support the expansion of our investment strategy to develop properties. We expect to fully integrate Wheeler Development into our operations by January 2015.

Our Structure

The following diagram depicts the ownership structure of Wheeler Real Estate Investment Trust, Inc. upon the completion of the offering contemplated hereby.



(1) We expect to acquire WHLR Management, LLC by December 31, 2014.

(2) Some of the owners of properties we acquired received limited partnership units in Wheeler REIT, L.P. in exchange for the contribution of their membership interests in the entities previously acquired by our company. Of the 2,067,014 limited partnership units outstanding, 394,697 are owned by Jon S. Wheeler, 3,185 are owned by Robin Hanisch, our Secretary, and 14,620 are owned by Ann L. McKinney, one of our directors.

(3) Our Operating Partnership owns 100% of the membership interests of each of the entities that own the properties in our portfolio.

Restrictions on Transfer

Under the Partnership Agreement, holders of common units do not have redemption or exchange rights, except under limited circumstances, for a period of 12 months, and may not otherwise transfer their units, except under certain limited circumstances, for a period of 12 months following issuance. After the expiration of this 12-month period, transfers of units by limited partners and their assignees are subject to various conditions, including our right of first refusal. In addition, each of our officers, directors and their affiliates, have agreed not to sell or otherwise transfer or encumber any shares of our common stock or securities convertible or exchangeable into our common stock (including common units) owned by them at the completion of this offering or thereafter acquired by them for a period of six months after the date of this prospectus.

Restrictions on Ownership of our Stock

Due to limitations on the concentration of ownership of REIT stock imposed by the Internal Revenue Code of 1986, as amended (the "Code"), our charter generally prohibits any person from actually, beneficially or constructively

owning more than 9.8% in value or number of shares, whichever is more restrictive, of the outstanding shares of our common stock or more than 9.8% in value of the aggregate outstanding shares of all classes and series of our stock (the "Ownership Limits"). See "Description of Securities—Restrictions on Ownership and Transfer."

Emerging Growth Company Status

We are an "emerging growth company," as defined in the JOBS Act, and we are eligible to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a non-binding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We take advantage of these exemptions. We do not know if some investors will find our common stock less attractive as a result. The result may be a less active trading market for our common stock and our stock price may be more volatile.

In addition, Section 107 of the JOBS Act also provides that an "emerging growth company" can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. In other words, an "emerging growth company" can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. However, we elected to "opt out" of such extended transition period, and as a result, we will comply with new or revised accounting standards on the relevant dates on which adoption of such standards is required for non-emerging growth companies. Section 107 of the JOBS Act provides that our decision to opt out of the extended transition period for complying with new or revised accounting standards is irrevocable.

We could remain an "emerging growth company" for up to five years, or until the earliest of (i) the last day of the first fiscal year in which our annual gross revenues exceed $1 billion, (ii) the date that we become a "large accelerated filer" as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), which would occur if the market value of our common stock that is held by non-affiliates exceeds $700 million as of the last business day of our most recently completed second fiscal quarter, or (iii) the date on which we have issued more than $1 billion in non-convertible debt during the preceding three year period.

Conflicts of Interest

Following the completion of this offering, conflicts of interest may arise between the holders of units and our stockholders with respect to certain transactions, such as the sale of any properties or a reduction of indebtedness, which could have adverse tax consequences to holders of units, including Mr. Wheeler, thereby making those transactions less desirable to such holders. Conflicts of interest may also arise with our Administrative Services Company, Wheeler Interests, LLC and Wheeler Real Estate, LLC due to the fees they receive from us for their services. Further, conflicts of interest may arise when we purchase properties from entities controlled by Mr. Wheeler because we will not have the benefit of arm's length negotiations of the type normally conducted between unrelated parties. Lastly, conflicts of interest may arise with Mr. Wheeler and the Administrative Services Company because they are not prohibited from pursuing real estate programs and investment strategies similar to ours. In the event of such a conflict, we are under no obligation to give priority to the separate interests of our company or our stockholders. However, we have adopted conflict of interest policies aimed at minimizing these conflicts.

Distribution Policy

We intend to pay cash dividends to holders of our common stock on a monthly basis and holders of our preferred stock on a quarterly basis. We intend to make dividend distributions that will enable us to meet the distribution requirements applicable to REITs and to eliminate or minimize our obligation to pay income and excise taxes. We will be required to use a portion of the net proceeds from this offering to make such distributions. We may in the future also choose to pay dividends in shares of our common stock. See "Material U.S. Federal Income Tax Considerations—Federal Income Tax Considerations for Holders of Our Common Stock—Taxation of Taxable U.S. Stockholders" and "Risk Factors—Risks Related to Our Status as a REIT—We may in the future choose to pay dividends in shares of our common stock, in which case you may be required to pay tax in excess of the cash you receive."

Additionally, we agreed with our underwriters in our initial public offering that any common units held by Jon S. Wheeler, directly or indirectly or through his spouse, children or affiliated entities, are contractually subordinated to the remaining common units and common stock as it relates to dividend payments to be received by the holders of common units and the holders of common stock.

Our Tax Status

We elected to be taxed and to operate in a manner that will allow us to qualify as a REIT for federal income tax purposes. We believe that our organization and proposed method of operation will continue to enable us to meet the requirements for qualification and taxation as a REIT. To maintain REIT status, we must meet a number of organizational and operational requirements, including a requirement that we annually distribute at least 90% of our REIT taxable income to our stockholders.

Corporate Information

Our principal executive office is located at Riversedge North, 2529 Virginia Beach Boulevard, Suite 200, Virginia Beach, Virginia 23452. Our telephone number is 757-627-9088. Our website is located at www.WHLR.us. The information on, or accessible through, our website is not incorporated into and does not constitute a part of this prospectus or any other report or document we file with or furnish to the Securities and Exchange Commission (the "SEC").

The Offering

Series B Preferred Stock	600,000 shares of Series B Preferred Stock will be offered as part of the Units through our underwriters in this offering on a firm commitment basis.
	Ranking. The Series B Preferred Stock ranks senior to our common stock and on parity with our Series A Preferred Stock with respect to payment of dividends and rights upon liquidation, dissolution or winding up.
	Stated Value. Each share of Series B Preferred Stock will have an initial "Stated Value" of $25.00, subject to appropriate adjustment in relation to certain events, such as recapitalizations, stock dividends, stock splits, stock combinations, reclassifications or similar events affecting our Series B Preferred Stock, as set forth in the sections of our charter that set forth the rights, preferences and limitations of the Series B Preferred Stock.

	Dividends. Holders of Series B Preferred Stock are entitled to receive, when and as authorized by our board of directors and declared by us out of legally available funds, cumulative cash dividends on each share of Series B Preferred Stock at an annual rate of nine percent (9%) of the Stated Value. Dividends on each share of Series B Preferred Stock will begin accruing on, and will be cumulative from, the date of issuance. We expect to continue to pay dividends on the Series B Preferred Stock quarterly, unless our results of operations, our general financing conditions, general economic conditions, applicable provisions of Maryland law or other factors make it imprudent to do so. We also expect to continue to authorize and declare dividends on the shares of Series B Preferred Stock on a quarterly basis payable quarterly in arrears on or before the fifteenth day of each January, April, July and October of each year (or the next business day if such day is not a business day). The timing and amount of such dividends will be determined by our board of directors, in its sole discretion, and may vary from time to time. *Voluntary Conversion*. The holder of a share of Series B Preferred Stock may convert such share of Series B Preferred Stock at any time into shares of our common stock at an initial conversion rate of $5.00 per share. Such conversion shall occur on the date following the record date for our next dividend payment. *Mandatory Conversion*. To the extent the 20-trading day volume-weighted average closing price of our common stock exceeds $7.25 per share, each share of Series B Preferred Stock will, on the date following the record date for our next dividend payment, automatically convert into shares of common stock at an initial conversion price equal to $5.00 per share. *Liquidation*. Upon any voluntary or involuntary liquidation, dissolution or winding-up of our affairs, before any distribution or payment shall be made to holders of our common stock or any other class or series of capital stock ranking junior to our shares of Series B Preferred Stock, the holders of shares of Series B Preferred Stock will be entitled to be paid out of our assets legally available for distribution to our stockholders, after payment or provision for our debts and other liabilities, a liquidation preference equal to the Stated Value per share, plus accrued but unpaid dividends. *Voting Rights*. The Series B Preferred Stock have no voting rights, except as required by law.
Warrants	Warrants to purchase up to 720,000 shares of common stock will be offered as part of the Units. The Warrants will be exercisable upon issuance for a term ending on April 29, 2019. The initial exercise price will be $5.50 per share.

Capital stock to be outstanding after this offering	1,428,000 shares of Series B Preferred Stock 1,809 shares of Series A Preferred Stock 7,428,208 shares of common stock (1)
Estimated use of proceeds	We estimate that we will receive net proceeds from the sale of the Units in this offering of approximately million after deducting estimated offering expenses, including underwriters commissions, payable by us of approximately. We intend to invest the net proceeds of this offering in connection with the Contemplated Acquisitions, in connection with future acquisitions and for general working capital purposes, including using a portion of the proceeds to pay future dividends.
NASDAQ Symbol for Common Stock	WHLR
NASDAQ Symbol for Series B Preferred Stock	WHLRP
NASDAQ Symbol for Warrants	WHLRW

Capital Structure

The Series B Preferred Stock ranks (i) on parity with our Series A Preferred Stock and (ii) senior to our common stock with respect to both payment of dividends and distribution of amounts upon liquidation. Our board of directors has the authority to issue shares of additional series of preferred stock that could be senior in priority to the Series B Preferred Stock.

(1) The number of shares of common stock to be outstanding immediately after this offering as shown above reflects only the 7,428,208 shares of common stock outstanding as of August 18, 2014 and does not reflect the impact of securities convertible into shares of our common stock.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Unaudited Pro Forma Condensed Consolidated Financial Statements

The following unaudited pro forma condensed consolidated financial statements set forth on a pro forma basis for our company giving effect to this offering (the "Proposed Offering"), the 2014 Completed Acquisitions and the Contemplated Acquisitions as described elsewhere in this Prospectus and the pro forma impact of acquisitions completed during 2013. You should read the following unaudited pro forma condensed consolidated financial statements in conjunction with our financial statements and the related notes and with "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in our December 31, 2013 Annual Report on Form 10-K ("2013 Form 10-K") filed with the SEC on March 21, 2014 and in our June 30, 2014 Quarterly Report on Form 10-Q ("June 2014 Form 10-Q") filed with the SEC on August 14, 2014. Additionally, you should refer to financial information filed in relation to the property acquisitions as required under Rule 3-14 of Regulation S-X as promulgated by the SEC that are included within this Prospectus or have been incorporated by reference herein.

The following summarizes those properties that make up the 2014 Completed Acquisitions and the Contemplated Acquisitions which are described in more detail elsewhere in this Prospectus.

2014 Completed Acquisitions:

- Cypress Shopping Center (Boiling Springs, SC)—acquired July 1, 2014
- Harrodsburg Marketplace Shopping Center (Harrodsburg, KY)—acquired July 1, 2014
- Port Crossing Shopping Center (Harrisonburg, VA)—acquired July 3, 2014
- LaGrange Marketplace Shopping Center (LaGrange, GA)—acquired July 25, 2014
- DF 1-Courtland, LLC (Courtland, VA) (1)—acquired on August 15, 2014
- DF 1-Moyock, LLC (Moyock, NC) (1)—acquired on August 15, 2014
- Edenton Commons (Edenton, NC) (1)—acquired on August 15, 2014

Contemplated Acquisitions:

- Brook Run Shopping Center (Richmond, VA)
- Northeast Plaza Shopping Center (Lumberton, NC)
- Freeway Junction Shopping Center (Stockbridge, GA)

(1) Represents undeveloped real estate.

The following properties were acquired during 2013 ("2013 Acquisitions") and are described in more detail in our 2013 Form 10-K:

- Bixby Commons Shopping Center (Bixby, OK)—acquired June 11, 2013
- Tampa Festival (Tampa, FL)—acquired August 27, 2013
- Forrest Gallery (Tullahoma, TN)—acquired August 29, 2013
- Jenks Reasor's Shopping Center (Jenks, OK)—acquired September 24, 2013
- Starbucks/Verizon Retail Center (Virginia Beach, VA)—acquired October 21, 2013

- Jenks Plaza (Jenks, OK)—acquired December 17, 2013
- Winslow Plaza (Sicklerville, NJ)—acquired December 19, 2013
- Clover Plaza (Clover, SC)—acquired December 23, 2013
- St. George Plaza (St. George, SC)—acquired December 23, 2013
- South Square (Lancaster, SC)—acquired December 23, 2013
- Waterway Plaza (Little River, SC)—acquired December 23, 2013
- Westland Square (West Columbia, SC)—acquired December 23, 2013

The 2014 Completed Acquisitions, the Contemplated Acquisitions and the 2013 Acquisitions, as defined above, have been accounted for as an acquisition under the purchase accounting method and recognized at the estimated preliminary fair value of acquired assets and assumed liabilities on the date of such contribution or acquisition. The preliminary estimated fair value of these assets and liabilities has been allocated in accordance with Accounting Standards Codification ("ASC") section 805-10, *Business Combinations*. Our methodology of allocating the cost of acquisitions to assets acquired and liabilities assumed is based on estimated fair values, replacement cost and appraised values. We estimated the fair value of acquired tangible assets (consisting of land, building and improvements), identified intangible lease assets and liabilities (consisting of acquired above-market leases, acquired in-place lease value and acquired below-market leases) and assumed debt.

The values allocated to leasing commissions, legal and marketing fees associated with replacing existing leases, tenant relationships and in-place leases are amortized over the related lease term and reflected as depreciation and amortization. The value of above- and below-market in place leases are amortized over the related lease term and reflected as either an increase (for below-market leases) or a decrease (for above-market leases) to rental income. The fair value of the debt assumed is determined using current market interest rates for comparable debt financings. The estimated purchase price of the acquired properties for pro forma purposes is based on a relative equity evaluation analysis of the properties which incorporates cash flows and outstanding mortgage debt of the properties.

The following unaudited pro forma condensed consolidated financial information sets forth:

- the condensed consolidated financial information of our company as of and for the six months ended June 30, 2014 as provided in our financial statements included in our June 2014 Form 10-Q;
- the condensed consolidated financial information of our company as of and for the year ended December 31, 2013 as provided in our financial statements included in our 2013 Form 10-K;
- pro forma adjustments related to the Proposed Offering as if the transactions were completed as of June 30, 2014 for purposes of the unaudited pro forma condensed consolidated balance sheet and as of January 1, 2013 for purposes of the unaudited pro forma condensed consolidated statement of operations;
- the estimated preliminary fair value balance sheet for the 2014 Completed Acquisitions and the Contemplated Acquisitions as of June 30, 2014 and their estimated pro forma results of operations for the six months ended June 30, 2014 and the year ended December 31, 2013 (audited, if applicable); and
- the estimated pro forma results of operations for the year ended December 31, 2013 (audited, if applicable) of the 2013 Acquisitions.

The Bixby Commons, Jenks Reasor's and Starbucks/Verizon acquisitions have been reflected in the pro forma balance sheet and the estimated pro forma results of operations for the six months ended June 30, 2014. However, the incremental pro forma impact of these acquisitions on operations has been excluded from the pro forma statement of operations for the year ended December 31, 2013 due to the limited operating history for these properties as discussed below.

The Bixby Commons Shopping Center, a 75,000 square foot shopping center located in Bixby, Oklahoma, was purchased by us on June 11, 2013 for approximately $10.6 million. In conjunction with this acquisition, we raised $4.16 million in net proceeds in a preferred stock offering. The property is leased to Associated Wholesale Grocers (AWG) who in turn subleases 100% of the property to a Reasor's Foods grocery store. The property was originally leased to AWG pursuant to a Build and Lease Agreement between AWG and the seller, a wholly-owned subsidiary of AWG. Construction of the property was completed during late 2012 and Reasor's Foods opened their store during November 2012. Accordingly, there is limited third party operating history for the property.

We acquired Jenks Reasor's, an 81,000 square foot free-standing retail property located in Jenks, Oklahoma, on September 24, 2013 for a purchase price of approximately $11.4 million through a sales-leaseback transaction with AWG. The property was built in 2011. The property is subleased to a Reasor's Foods grocery store under a 20 year, triple-net operating lease expiring in 2033 and subject to annual rental payments of $912,000. Under the lease agreement, Reasor's is responsible for all expenses associated with the property, including taxes, insurance, roof and structure. Due the nature of the relationship between AWG and Reasor's, there is limited third party operating history available.

We acquired Starbucks/Verizon, a 5,600 square foot free standing retail property located in Virginia Beach, Virginia, on October 21, 2013 for a purchase price of approximately $1.4 million. The property was built in 1985 and underwent significant renovations in 2012. The property is 100% leased by Starbucks Coffee and Verizon Wireless, who occupy 2,165 square feet and 3,435 square feet, respectively. Under the initial terms, Starbucks' lease will expire in 2023 with three five-year options to renew, while Verizon Wireless' lease will expire in 2022 and will also offer three five-year options to renew. Since the property was significantly renovated in late 2012 and the Starbucks and Verizon leases did not begin until October 2012, there is limited operating history available.

The unaudited pro forma condensed consolidated balance sheet is presented for illustrative purposes only and is not necessarily indicative of what the actual financial position would have been had the transactions referred to above occurred on June 30, 2014, nor does it purport to represent the future financial position of the company. The unaudited pro forma condensed consolidated statement of operations is presented for illustrative purposes only and is not necessarily indicative of what the actual results of operations would have been had the transactions referred to above occurred on January 1, 2013, nor does it purport to represent the future results of operations of the company.

The properties making up the 2014 Completed Acquisitions, the Contemplated Acquisitions and the 2013 Acquisitions (including Bixby Commons, Jenks Reasor's and Starbucks/Verizon) may be reassessed for property tax purposes. Therefore, the amount of property taxes we pay in the future may increase from what we have paid in the past. Given the uncertainty of the amounts involved, we have not included any property tax increase in our pro forma financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Unaudited Pro Forma Condensed Consolidated Balance Sheet
June 30, 2014

		Pro Forma Transactions				
	WHLR, Inc. & Subsidiaries (1)	Proposed Offering (2)	2014 Completed Acquisitions (3)	Contemplated Acquisitions (3)	Other Pro Forma Transactions (4)	WHLR, Inc. & Subsidiaries Consolidated Pro Forma
ASSETS:						
Investment properties, net at cost	$ 100,553,283	$ —	$ 26,242,200	$ 29,037,600	$ —	$ 155,833,083
Cash and cash equivalents	16,243,867	13,500,000	(7,010,800)	(5,697,000)	—	17,036,067
Rents and other tenant receivables, net	1,663,027	—	255,700	935,000	—	2,853,727
Deferred costs and other assets	21,692,120	—	3,828,000	4,616,800	—	30,136,920
Total Assets	$ 140,152,297	$13,500,000	$ 23,315,100	$ 28,892,400	$ —	$ 205,859,797
LIABILITIES:						
Mortgages and other indebtedness	$ 95,236,145	$ —	$ 22,269,500	$ 28,037,700	$ —	$ 145,543,345
(Above)/Below market lease intangible, net	2,610,379	—	(631,500)	(272,100)	—	1,706,779
Accounts payable, accrued expenses and other liabilities	3,361,048	—	440,300	1,126,800	—	4,928,148
Total Liabilities	101,207,572	—	22,078,300	28,892,400	—	152,178,272
EQUITY:						
Series A convertible preferred stock (no par value, 4,500 shares authorized, 1,809 shares issued and outstanding)	1,458,050	—	—	—	—	1,458,050
Series B convertible preferred stock (no par value, 3,000,000 shares authorized, 1,428,000 shares issued and outstanding)	18,738,515	13,500,000	—	—	—	32,238,515
Common stock ($0.01 par value, 75,000,000 shares authorized, 7,421,852 shares issued and outstanding)	74,218	—	—	—	—	74,218
Additional paid-in capital	28,092,906	—	—	—	(1,209,853)	26,883,053
Accumulated deficit	(16,274,152)	—	—	—	—	(16,274,152)
Total Shareholders' Equity	32,089,537	13,500,000	—	—	(1,209,853)	44,379,684
Noncontrolling interests	6,855,188	—	1,236,800	—	1,209,853	9,301,841
Total Equity	38,944,725	13,500,000	1,236,800	—	—	53,681,525
Total Liabilities and Equity	$ 140,152,297	$13,500,000	$ 23,315,100	$ 28,892,400	$ —	$ 205,859,797

See accompanying notes and management's assumptions to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Unaudited Pro Forma Condensed Consolidated Statement of Operations
Six Months Ended June 30, 2014

	WHLR, Inc. & Subsidiaries (5)	Pro Forma Transactions: 2014 Completed Acquisitions (6)	Pro Forma Transactions: Contemplated Acquisitions (7)	Pro Forma Transactions: Other Pro Forma Transactions (8)	WHLR, Inc. & Subsidiaries Consolidated Pro Forma	
REVENUE:						
Rental revenues	$ 5,948,100	$ 1,129,200	$ 1,461,200	$ (179,900)	$ 8,358,600	
Other revenues	1,349,746	185,300	329,100	—	1,864,146	
Total Revenue	7,297,846	1,314,500	1,790,300	(179,900)	10,222,746	
OPERATING EXPENSES:						
Property operations	1,832,219	353,200	535,200	—	2,720,619	
Depreciation and amortization	3,521,546	—	—	2,235,600	5,757,146	
Provision for credit losses	(28,032)	—	—	—	(28,032)	
Corporate general & administrative	2,217,867	33,300	83,300	—	2,334,467	
Total Operating Expenses	7,543,600	386,500	618,500	2,235,600	10,784,200	
Operating Income (Loss)	(245,754)	928,000	1,171,800	(2,415,500)	(561,454)	
Interest expense	(2,905,575)	—	—	(1,162,000)	(4,067,575)	
Net Income (Loss)	$ (3,151,329)	$ 928,000	$ 1,171,800	$ (3,577,500)	(4,629,029)	
Less: Net loss attributable to noncontrolling interests					(783,900)	(14)
Net Loss Attributable to Wheeler REIT					(3,845,129)	
Pro forma preferred stock dividends					(1,889,300)	(15)
Net Loss Attributable to Wheeler REIT Common Shareholders					$ (5,734,429)	
Loss per share:						
Basic and Diluted					$ (0.79)	
Weighted-average number of shares:						
Basic and Diluted					7,258,068	

See accompanying notes and management's assumptions to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Unaudited Pro Forma Condensed Consolidated Statement of Operations
Year Ended December 31, 2013

		Pro Forma Transactions				
	WHLR, Inc. & Subsidiaries (9)	2013 Acquisitions (10)	2014 Completed Acquisitions (11)	Contemplated Acquisitions (12)	Other Pro Forma Transactions (13)	WHLR, Inc. & Subsidiaries Consolidated Pro Forma
REVENUE:						
Rental revenues	$ 7,158,549	$3,930,000	$ 2,254,400	$ 3,060,200	$ (663,200)	$ 15,739,949
Other revenues	1,548,943	847,600	401,200	799,600	—	3,597,343
Total Revenue	8,707,492	4,777,600	2,655,600	3,859,800	(663,200)	19,337,292
OPERATING EXPENSES:						
Property operations	1,713,957	1,484,200	595,400	960,300	—	4,753,857
Depreciation and amortization	3,466,957	—	—	—	8,441,400	11,908,357
Provision for credit losses	106,828	—	—	—	—	106,828
Corporate general & administrative	5,297,166	163,600	102,800	126,300	—	5,689,866
Total Operating Expenses	10,584,908	1,647,800	698,200	1,086,600	8,441,400	22,458,908
Operating Income (Loss)	(1,877,416)	3,129,800	1,957,400	2,773,200	(9,104,600)	(3,121,616)
Interest expense	(2,497,810)	—	—	—	(4,911,900)	(7,409,710)
Net Income (Loss)	$ (4,375,226)	$3,129,800	$ 1,957,400	$ 2,773,200	$(14,016,500)	(10,531,326)
Less: Net loss attributable to noncontrolling interests						(1,664,200) (14)
Net Loss Attributable to Wheeler REIT						(8,867,126)
Pro forma preferred stock dividends						(3,778,600) (15)
Net Loss Attributable to Wheeler REIT Common Shareholders						$(12,645,726)
Loss per share:						
Basic and Diluted						$ (2.74)
Weighted-average number of shares:						
Basic and Diluted						4,620,600

See accompanying notes and management's assumptions to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Notes and Management's Assumptions to Unaudited Pro Forma
Condensed Consolidated Financial Statements

A. Basis of Presentation

The accompanying unaudited pro forma condensed consolidated financial statements are presented to reflect:

- the effect of closing the Proposed Offering, assuming we issue 600,000 shares of no par value Series B Preferred Stock estimated to be issued at $25 per share for the purposes of these pro formas;
- using approximately $12.7 million of cash on hand and proceeds from the Proposed Offering for the 2014 Completed Acquisitions and the Contemplated Acquisitions;
- the preliminary estimated fair value for the 2014 Completed Acquisitions and the Contemplated Acquisitions as of June 30, 2014 as accounted for under the purchase method of accounting in accordance with ASC Section 805, *Business Combinations*; and
- the pro forma impact on operations for the 2014 Completed Acquisitions, the Contemplated Acquisitions and the 2013 Acquisitions assuming they were acquired on January 1, 2013.

As previously disclosed, the pro forma financial statements for the year ended December 31, 2013 exclude the full year's impact on operations of acquiring Bixby Commons, Jenks Reasor's and Starbucks/Verizon.

The unaudited pro forma condensed consolidated balance sheet assumes the transactions described above occurred on June 30, 2014. The unaudited pro forma condensed consolidated statement of operations assumes the transactions described above occurred on January 1, 2013. The unaudited pro forma condensed consolidated balance sheet is presented for illustrative purposes only and is not necessarily indicative of what the actual financial position would have been had the transactions referred to above occurred on June 30, 2014, nor does it purport to represent the future financial position of the company. The unaudited pro forma condensed consolidated statement of operations is presented for illustrative purposes only and is not necessarily indicative of what the actual results of operations would have been had the transactions referred to above occurred on January 1, 2013, nor does it purport to represent the future results of operations of the company. In the opinion of management, all material adjustments have been made to reflect the effects of transactions referred to above.

B. Management's Assumptions to the Unaudited Pro Forma Condensed Consolidated Balance Sheet

(1) Represents the consolidated financial information of our company as of June 30, 2014 as provided in our financial statements included in our June 2014 Form 10-Q.

(2) Represents the estimated impact of issuing 600,000 shares of Series B Preferred Stock estimated to be issued at $25 per share for the purposes of these pro formas, net of estimated offering costs.

Estimated gross proceeds from the sale of 600,000 shares of Series B convertible preferred stock at $25 per share	$15,000,000
Less: Placement fee and other estimated offering costs incurred (a)	(1,500,000)
Estimated net cash proceeds from common stock and preferred stock offerings	$13,500,000

a. Represents the estimated underwriter placement fee, legal, and other offering costs incurred prior to and at closing of the offering.

(3) Represents the preliminary estimated fair values related to the anticipated acquisition of the 2014 Completed Acquisitions and the Contemplated Acquisitions. The amounts presented reflect the initial allocation of the preliminary estimated fair values and will be finalized subsequent to consummation of

the transactions. The following summarizes the estimated consideration to be paid and the preliminary estimated fair values of assets to be acquired and liabilities to be assumed in conjunction with the company acquiring the 2014 Completed Acquisitions and the Contemplated Acquisitions, along with a description of the methods used to estimate fair value. In estimating fair values, we considered many factors including, but not limited to, cash flows, market cap rates, location, occupancy rates, appraisals, other acquisitions and our knowledge of the current acquisition market for similar properties.

	2014 Completed Acquisitions	Contemplated Acquisitions
Preliminary estimated fair value of assets acquired and liabilities assumed:		
Investment property (a)	$ 26,242,200	$ 29,037,600
Tenant and other receivables and other assets (b)	255,700	935,000
Other lease intangibles (c)	3,828,000	4,616,800
Mortgage debt (d)	(22,269,500)	(28,037,700)
Accounts payable, accrued expenses and other liabilities (e)	(440,300)	(1,126,800)
Above/(below) market leases (f)	631,500	272,100
Estimated fair value of net assets acquired	$ 8,247,600	$ 5,697,000
Estimated purchase consideration:		
Estimated consideration paid with common units	$ 1,236,800	$ —
Estimated consideration paid with cash	7,010,800	5,697,000
Total estimated consideration (g)	$ 8,247,600	$ 5,697,000

a. Represents the preliminary estimated fair value of the net investment properties acquired which includes land, buildings, site improvements and tenant improvements. The fair value was estimated using following approaches:

   i. the market approach valuation methodology for land by considering similar transactions in the markets;

   ii. a combination of the cost approach and income approach valuation methodologies for buildings, including replacement cost evaluations, “go dark” analyses and residual calculations incorporating the land values;

   iii. the cost approach valuation methodology for site and tenant improvements, including replacement costs and prevailing quoted market rates; and

   iv. the income approach valuation methodology for in place leases which considered estimated market rental rates, expenses reimbursements and time required to replace leases.

b. Represents the preliminary estimated fair value of tenant and other receivables and other assets. It was determined that carrying value approximated fair value for all amounts in these categories.

c. Represents the preliminary estimated fair value of other lease intangibles which includes leasing commissions, legal and marketing fees associated with replacing existing leases, tenant relationships and in-place lease values. The income approach was used to estimate the fair value of these intangible assets which included estimated market rates and expenses.

d. Represents the preliminary estimated fair value of mortgages payable which was calculated by performing a discounted cash flow analysis on debt service using current prevailing market interest on comparable debt.

e. Represents the preliminary estimated fair value of accounts, accrued expenses and other liabilities. It was determined that carrying value approximated fair value for all amounts in these categories.

f. Represents the preliminary estimated fair value of above/(below) market leases. The income approach was used to estimate the fair value of above/(below) market leases using market rental rates for similar properties.

g. Represents the preliminary estimated purchase consideration to be paid for the 2014 Completed Acquisitions and the Contemplated Acquisitions.

(4) Represents the following pro forma transactions:

a. The reallocation to the noncontrolling interest based on approximately 2,706,151 ownership units in the Operating Partnership purchased by our company to facilitate closing the 2014 Completed Acquisitions and the Contemplated Acquisitions. This increase in our ownership of the Operating Partnership will result in a noncontrolling interest percentage of 14.71%, requiring a reallocation of $1,209,853.

C. Management's Assumptions to the Unaudited Pro Forma Condensed Consolidated Statement of Operations

(5) Represents the consolidated results of operations of our company for the six months ended June 30, 2014 as provided in our financial statements included in our June 2014 Form 10-Q.

(6) Represents the estimated pro forma impact of the 2014 Completed Acquisitions on operations for the six months ended June 30, 2014.

(7) Represents the estimated pro forma impact of the Contemplated Acquisitions on operations for the six months ended June 30, 2014.

(8) Represents the estimated impact on operations for the six months ended June 30, 2014 of additional depreciation and amortization and interest expense resulting from the 2014 Completed Acquisitions and the Contemplated Acquisitions.

(9) Represents the consolidated results of operations of our company for the year ended December 31, 2013 as provided in our financial statements included in our 2013 Form 10-K.

(10) Represents the estimated incremental pro forma impact on operations for year ended December 31, 2013 of the 2013 Acquisitions, excluding Bixby Commons, Jenks Reasor's and Starbucks/Verizon due to their limited third party operating history.

(11) Represents the estimated pro forma impact of the 2014 Completed Acquisitions on operations for the year ended December 31, 2013.

(12) Represents the estimated pro forma impact of the Contemplated Acquisitions on operations for the year ended December 31, 2013.

(13) Represents the estimated impact on operations for the year ended December 31, 2013 of additional depreciation and amortization and interest expense resulting from the 2013 Acquisitions, the 2014 Completed Acquisitions and the Contemplated Acquisitions.

(14) Represents the loss allocated to noncontrolling interests based on the new noncontrolling interest percentage of 14.71%.

(15) Represents the $90 per share dividends on the 1,809 shares of Series A Preferred Stock, the dividends on the 828,000 shares of Series B Preferred Stock issued in April 2014 (including shares issued in May 2014 as part of the over-allotment) at 9% per annum, the dividends on the Series B Preferred Stock to be issued in the Proposed Offering at 9% per annum and the amortization of the estimated preferred stock discounts.

D. Other Financial Information

Unaudited pro forma Funds from Operations ("FFO"), which is a measurement not in accordance with accounting principles generally accepted in the United States ("GAAP") or non-GAAP measurement, for the six months ended June 30, 2014 and the year ended December 31, 2013 is as follows:

	Six Months Ended June 30, 2014	Year Ended December 31, 2013
Net loss	$ (4,629,029)	$ (10,531,326)
Depreciation and amortization of real estate assets	5,757,146	11,908,357
Total FFO	$ 1,128,117	$ 1,377,031

We use FFO as an alternative measure of our operating performance, specifically as it relates to results of operations and liquidity. We compute FFO in accordance with standards established by the Board of Governors of the National Association of Real Estate Investment Trust ("NAREIT") in its March 1995 White Paper (as amended in November 1999 and April 2002). As defined by NAREIT, FFO represents net income (computed in accordance with GAAP), excluding gains (or losses) from sales of property, plus real estate related depreciation and amortization (excluding amortization of loan origination costs) and after adjustments for unconsolidated partnerships and joint ventures. Most industry analysts and equity REITs, including us, consider FFO to be an appropriate supplemental measure of operating performance because, by excluding gains or losses on dispositions and excluding depreciation, FFO is a helpful tool that can assist in the comparison of the operating performance of a company's real estate between periods, or as compared to different companies. Management uses FFO as a supplemental measure to conduct and evaluate our business because there are certain limitations associated with using GAAP net income alone as the primary measure of our operating performance. Historical cost accounting for real estate assets in accordance with GAAP implicitly assumes that the value of real estate assets diminishes predictably over time, while historically real estate values have risen or fallen with market conditions. Accordingly, we believe FFO provides a valuable alternative measurement tool to GAAP when presenting our operating results.

RISK FACTORS

Investing in the Series B Preferred Stock and the Warrants involves risks. In addition to other information contained in this prospectus, you should carefully consider the following factors before acquiring any securities by this prospectus. The occurrence of any of the following risks could materially and adversely affect our business, prospects, financial condition, results of operations and our ability to make cash distributions to our stockholders, which could cause you to lose all or a part of your investment. Some statements in this prospectus, including statements in the following risk factors, constitute forward-looking statement. Please refer to the section entitled "Forward-Looking Statements."

Risks Related to Our Business and Operations

We have a limited operating history as a REIT and a publicly traded company. We have limited financing sources, and we may not be able to successfully operate as a REIT or a publicly traded company.

We have a limited operating history as a REIT and a publicly traded company. We cannot assure you that the past experience of Mr. Wheeler and the management teams of our Services Companies will be sufficient to successfully operate our company as a REIT or a publicly traded company, including the requirements to timely meet disclosure requirements of the SEC, and comply with the Sarbanes-Oxley Act of 2002 and REIT requirements imposed by the Code. Failure to operate successfully as a public company or maintain our qualification as a REIT would have an adverse effect on our financial condition, results of operations, cash flow and per share trading price of our common stock. See "—Risks Related to Our Status as a REIT—Failure to qualify as a REIT would have significant adverse consequences to us and the value of our common stock."

Additionally, we have limited financing sources. If our capital resources are insufficient to support our operations, we will not be successful. You should consider our prospects in light of the risks, uncertainties and difficulties frequently encountered by companies that are, like us, in the early stages of development. To be successful in this market, we must, among other things:

- identify and acquire additional investments that further our investment strategies;
- increase awareness of our REIT within the investment products market;
- attract, integrate, motivate and retain qualified personnel to manage our day-to-day operations;
- respond to competition for our targeted real estate properties and other investment as well as for potential investors; and
- continue to build and expand our operations structure to support our business.

We cannot guarantee that we will succeed in achieving these goals, and our failure to do so could cause you to lose all or a portion of your investment.

Our portfolio of properties is dependent upon regional and local economic conditions and is geographically concentrated in the Northeast, Mid-Atlantic, Southeast and Southwest, which may cause us to be more susceptible to adverse developments in those markets than if we owned a more geographically diverse portfolio.

Our properties are located in Virginia, North Carolina, Florida, Georgia, South Carolina, Kentucky, Oklahoma, Tennessee and New Jersey, which exposes us to greater economic risks than if we owned a more geographically diverse portfolio. If there is a downturn in the economy in our markets, our operations and our revenue and cash available for distribution, including cash available to pay distributions to our stockholders, could be materially adversely affected. We cannot assure you that our markets will grow or that underlying real estate fundamentals will be favorable to owners and operators of retail properties. Our operations may also be affected if competing properties are built in our markets. Moreover, submarkets within any of our markets may

be dependent upon a limited number of industries. Any adverse economic or real estate developments in the Mid-Atlantic, Northeast, Southeast or Southwest markets, or any decrease in demand for retail space resulting from the regulatory environment, business climate or energy or fiscal problems, could adversely impact our financial condition, results of operations, cash flow, our ability to satisfy our debt service obligations and our ability to pay distributions to our stockholders.

As of June 30, 2014, we had approximately $95.2 million of indebtedness outstanding, which may expose us to the risk of default under our debt obligations.

As of June 30, 2014, our total indebtedness was approximately $95.2 million, a substantial portion of which is guaranteed by our Operating Partnership, and we may incur additional debt to finance future acquisition and development activities.

Payments of principal and interest on borrowings may leave us with insufficient cash resources to operate our properties or to pay the dividends currently contemplated or necessary to maintain our REIT qualification. Our level of debt and the limitations imposed on us by our debt agreements could have significant adverse consequences, including the following:

- our cash flow may be insufficient to meet our required principal and interest payments;
- we may be unable to borrow additional funds as needed or on favorable terms, which could, among other things, adversely affect our ability to meet operational needs;
- we may be unable to refinance our indebtedness at maturity or the refinancing terms may be less favorable than the terms of our original indebtedness;
- we may be forced to dispose of one or more of our properties, possibly on unfavorable terms or in violation of certain covenants to which we may be subject;
- we may violate financial covenants in our loan documents, which would entitle the lenders to accelerate our debt obligations; and
- our default under any loan with cross default provisions could result in a default on other indebtedness.

If any one of these events were to occur, our financial condition, results of operations, cash flow and per share trading price of our common stock could be adversely affected. Furthermore, foreclosures could create taxable income without accompanying cash proceeds, which could hinder our ability to meet the REIT distribution requirements imposed by the Code.

The majority of our properties are retail shopping centers and depend on anchor stores or major tenants to attract shoppers and could be adversely affected by the loss of, or a store closure by, one or more of these tenants.

Large, regionally or nationally recognized tenants typically anchor our properties. At any time, our tenants may experience a downturn in their business that may significantly weaken their financial condition. As a result, our tenants, including our anchor and other major tenants, may fail to comply with their contractual obligations to us, seek concessions in order to continue operations or declare bankruptcy, any of which could result in the termination of such tenants' leases and the loss of rental income attributable to the terminated leases. In addition, certain of our tenants may cease operations while continuing to pay rent, which could decrease customer traffic, thereby decreasing sales for our other tenants at the applicable retail property. In addition to these potential effects of a business downturn, mergers or consolidations among large retail establishments could result in the closure of existing stores or duplicate or geographically overlapping store locations, which could include stores at our retail properties.

Loss of, or a store closure by, an anchor or major tenant could significantly reduce our occupancy level or the rent we receive from our retail properties, and we may not have the right to re-lease vacated space or we may

be unable to re-lease vacated space at attractive rents or at all. Moreover, in the event of default by a major tenant or anchor store, we may experience delays and costs in enforcing our rights as landlord to recover amounts due to us under the terms of our agreements with those parties. The occurrence of any of the situations described above, particularly if it involves an anchor tenant with leases in multiple locations, could seriously harm our performance and could adversely affect the value of the applicable retail property.

Some of the leases at our retail properties contain "co-tenancy" or "go-dark" provisions, which, if triggered, may allow tenants to pay reduced rent, cease operations or terminate their leases, any of which could adversely affect our performance or the value of the applicable retail property.

Some of the leases at our retail properties contain "co-tenancy" provisions that condition a tenant's obligation to remain open, the amount of rent payable by the tenant or the tenant's obligation to continue occupancy on certain conditions, including: (1) the presence of a certain anchor tenant or tenants; (2) the continued operation of an anchor tenant's store; and (3) minimum occupancy levels at the applicable retail property. If a co-tenancy provision is triggered by a failure of any of these or other applicable conditions, a tenant could have the right to cease operations, to terminate its lease early or to a reduction of its rent. In periods of prolonged economic decline, there is a higher than normal risk that co-tenancy provisions will be triggered as there is a higher risk of tenants closing stores or terminating leases during these periods. In addition to these co-tenancy provisions, certain of the leases at our retail properties contain "go-dark" provisions that allow the tenant to cease operations while continuing to pay rent. This could result in decreased customer traffic at the applicable retail property, thereby decreasing sales for our other tenants at that property, which may result in our other tenants being unable to pay their minimum rents or expense recovery charges. These provisions also may result in lower rental revenue generated under the applicable leases. To the extent co-tenancy or go-dark provisions in our retail leases result in lower revenue or tenant sales or tenants' rights to terminate their leases early or to a reduction of their rent, our performance or the value of the applicable retail property could be adversely affected.

We may be unable to renew leases, lease vacant space or re-let space as leases expire, thereby increasing or prolonging vacancies, which could adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock.

As of June 30, 2014, leases representing approximately 5.58% of the square footage and approximately 7.50% of the annualized base rent of the properties in our portfolio will expire during the twelve months ending June 30, 2015, and an additional 5.3% of the square footage of the properties in our portfolio was available. We cannot assure you that leases will be renewed or that our properties will be re-let at net effective rental rates equal to or above the current average net effective rental rates or that substantial rent abatements, tenant improvements, early termination rights or below-market renewal options will not be offered to attract new tenants or retain existing tenants. If the rental rates for our properties decrease, our existing tenants do not renew their leases or we do not re-let a significant portion of our available space and space for which leases will expire, our financial condition, results of operations, cash flow and per share trading price of our common stock could be adversely affected.

We may be unable to identify and complete acquisitions of properties that meet our criteria (including the Contemplated Acquisitions), which may impede our growth and ability to pay dividends as expected.

Our business strategy involves the acquisition of income producing assets such as strip centers, neighborhood centers, grocery-anchored centers, community centers, free-standing retail properties and development properties. These activities require us to identify suitable acquisition candidates or investment opportunities that meet our criteria and are compatible with our growth strategies. We continue to evaluate the market of available properties and may attempt to acquire properties when strategic opportunities exist. However, we may be unable to acquire properties identified as potential acquisition opportunities, including the Contemplated Acquisitions. Our ability to acquire properties on favorable terms, or at all, may be exposed to the following significant risks:

- we may incur significant costs and divert management attention in connection with evaluating and negotiating potential acquisitions, including ones that we are subsequently unable to complete;

- even if we enter into agreements for the acquisition of properties, these agreements are subject to conditions to closing, which we may be unable to satisfy; and
- we may be unable to finance the acquisition on favorable terms or at all.

If we are unable to finance property acquisitions or acquire properties on favorable terms, or at all, our financial condition, results of operations, cash flow and per share trading price of our common stock could be adversely affected. In addition, failure to identify or complete acquisitions of suitable properties could slow our growth and hinder our ability to pay dividends as expected.

The price we are paying for the properties making up the Contemplated Acquisitions may exceed their fair market value.

The properties making up the Contemplated Acquisitions, excluding Freeway Junction, are being acquired from entities controlled by Mr. Wheeler, and we have not obtained any third-party appraisals of the Contemplated Acquisitions. Accordingly, the value of the cash to be paid as consideration for the Contemplated Acquisitions may exceed their aggregate fair market value.

We face significant competition for acquisitions of real properties, which may reduce the number of acquisition opportunities available to us and increase the costs of these acquisitions.

The current market for acquisitions continues to be extremely competitive. This competition may increase the demand for the types of properties in which we typically invest and, therefore, reduce the number of suitable acquisition opportunities available to us and increase the prices paid for such acquisition properties. We also face significant competition for attractive acquisition opportunities from an indeterminate number of investors, including publicly traded and privately held REITs, private equity investors and institutional investment funds, some of which have greater financial resources than we do, a greater ability to borrow funds to acquire properties and the ability to accept more risk than we can prudently manage, including risks with respect to the geographic proximity of investments and the payment of higher acquisition prices. This competition will increase if investments in real estate become more attractive relative to other forms of investment. Competition for investments may reduce the number of suitable investment opportunities available to us and may have the effect of increasing prices paid for such acquisition properties and/or reducing the rents we can charge and, as a result, adversely affecting our operating results.

Our future acquisitions may not yield the returns we expect, and we may otherwise be unable to operate these properties to meet our financial expectations, which could adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock.

Our future acquisitions and our ability to successfully operate the properties we acquire in such acquisitions may be exposed to the following significant risks:

- even if we are able to acquire a desired property, competition from other potential acquirers may significantly increase the purchase price;
- we may acquire properties that are not accretive to our results upon acquisition, and we may not successfully manage and lease those properties to meet our expectations;
- our cash flow may be insufficient to meet our required principal and interest payments;
- we may spend more than budgeted amounts to make necessary improvements or renovations to acquired properties;
- we may be unable to quickly and efficiently integrate new acquisitions, particularly acquisitions of portfolios of properties, into our existing operations, and as a result our results of operations and financial condition could be adversely affected;
- market conditions may result in higher than expected vacancy rates and lower than expected rental rates; and

- we may acquire properties subject to liabilities and without any recourse, or with only limited recourse, with respect to unknown liabilities such as liabilities for clean-up of undisclosed environmental contamination, claims by tenants, vendors or other persons dealing with the former owners of the properties, liabilities incurred in the ordinary course of business and claims for indemnification by general partners, directors, officers and others indemnified by the former owners of the properties.

If we cannot operate acquired properties to meet our financial expectations, our financial condition, results of operations, cash flow and per share trading price of our common stock could be adversely affected.

We may not be able to control our operating costs or our expenses may remain constant or increase, even if our revenues do not increase, causing our results of operations to be adversely affected.

Factors that may adversely affect our ability to control operating costs include the need to pay for insurance and other operating costs, including real estate taxes, which could increase over time, the need periodically to repair, renovate and re-lease space, the cost of compliance with governmental regulation, including zoning, environmental and tax laws, the potential for liability under applicable laws, interest rate levels and the availability of financing. If our operating costs increase as a result of any of the foregoing factors, our results of operations may be adversely affected.

The expense of owning and operating a property is not necessarily reduced when circumstances such as market factors and competition cause a reduction in income from the property. As a result, if revenues decline, we may not be able to reduce our expenses accordingly. Costs associated with real estate investments, such as real estate taxes, insurance, loan payments and maintenance, generally will not be reduced even if a property is not fully occupied or other circumstances cause our revenues to decrease. If we are unable to decrease operating costs when demand for our properties decreases and our revenues decline, our financial condition, results of operations and our ability to make distributions to our stockholders may be adversely affected.

High mortgage rates and/or unavailability of mortgage debt may make it difficult for us to finance or refinance properties, which could reduce the number of properties we can acquire, our net income and the amount of cash distributions we can make.

If mortgage debt is unavailable at reasonable rates, we may not be able to finance the purchase of properties. If we place mortgage debt on properties, we may be unable to refinance the properties when the loans become due, or to refinance on favorable terms. If interest rates are higher when we refinance our properties, our income could be reduced. If any of these events occur, our cash flow could be reduced. This, in turn, could reduce cash available for distribution to our stockholders and may hinder our ability to raise more capital by issuing more stock or by borrowing more money.

Mortgage debt obligations expose us to the possibility of foreclosure, which could result in the loss of our investment in a property or group of properties subject to mortgage debt.

Incurring mortgage and other secured debt obligations increases our risk of property losses because defaults on indebtedness secured by properties may result in foreclosure actions initiated by lenders and ultimately our loss of the property securing any loans for which we are in default. Any foreclosure on a mortgaged property or group of properties could adversely affect the overall value of our portfolio of properties. For tax purposes, a foreclosure on any of our properties that is subject to a nonrecourse mortgage loan would be treated as a sale of the property for a purchase price equal to the outstanding balance of the debt secured by the mortgage. If the outstanding balance of the debt secured by the mortgage exceeds our tax basis in the property, we would recognize taxable income on foreclosure, but would not receive any cash proceeds, which could hinder our ability to meet the REIT distribution requirements imposed by the Code.

Failure to hedge effectively against interest rate changes may adversely affect financial condition, results of operations, cash flow and per share trading price of our common stock.

Subject to maintaining our qualification as a REIT, we may enter into hedging transactions to protect us from the effects of interest rate fluctuations on floating rate debt. We currently do not have any hedges in place. Our hedging transactions may include entering into interest rate cap agreements or interest rate swap agreements. These agreements involve risks, such as the risk that such arrangements would not be effective in reducing our exposure to interest rate changes or that a court could rule that such an agreement is not legally enforceable. In addition, interest rate hedging can be expensive, particularly during periods of rising and volatile interest rates. Hedging could reduce the overall returns on our investments. Failure to hedge effectively against interest rate changes could materially adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock. In addition, while such agreements would be intended to lessen the impact of rising interest rates on us, they could also expose us to the risk that the other parties to the agreements would not perform, we could incur significant costs associated with the settlement of the agreements or that the underlying transactions could fail to qualify as highly-effective cash flow hedges under generally accepted accounting principles in the United States of America.

Adverse economic and geopolitical conditions and dislocations in the credit markets could have a material adverse effect on our financial condition, results of operations, cash flow and per share trading price of our common stock.

Our business may be affected by market and economic challenges experienced by the U.S. economy or real estate industry as a whole, including the recent dislocations in the credit markets and general global economic downturn. These conditions, or similar conditions existing in the future, may adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock as a result of the following potential consequences, among others:

- decreased demand for retail space, which would cause market rental rates and property values to be negatively impacted;
- reduced values of our properties may limit our ability to dispose of assets at attractive prices or to obtain debt financing secured by our properties and may reduce the availability of unsecured loans; and
- our ability to obtain financing on terms and conditions that we find acceptable, or at all, may be limited, which could reduce our ability to pursue acquisition and development opportunities and refinance existing debt, reduce our returns from our acquisition and development activities and increase our future interest expense.

In addition, the economic downturn has adversely affected, and may continue to adversely affect, the businesses of many of our tenants. As a result, we may see increases in bankruptcies of our tenants and increased defaults by tenants, and we may experience higher vacancy rates and delays in re-leasing vacant space, which could negatively impact our business and results of operations.

We are subject to risks that affect the general retail environment, such as weakness in the economy, the level of consumer spending, the adverse financial condition of large retailing companies and competition from discount and internet retailers, any of which could adversely affect market rents for retail space and the willingness or ability of retailers to lease space in our shopping centers.

With the exception of our Riversedge North property, which houses our offices and the offices of our Administrative Service Company, all of our properties are in the retail real estate market. This means that we are subject to factors that affect the retail sector generally, as well as the market for retail space. The retail environment and the market for retail space have been, and could continue to be, adversely affected by weakness in the national, regional and local economies, the level of consumer spending and consumer confidence, the adverse financial condition of some large retailing companies, the ongoing consolidation in the retail sector, the

excess amount of retail space in a number of markets and increasing competition from discount retailers, outlet malls, internet retailers and other online businesses. Increases in consumer spending via the Internet may significantly affect our retail tenants' ability to generate sales in their stores. In addition, some of our retail tenants face competition from the expanding market for digital content and hardware. New and enhanced technologies, including new digital technologies and new web services technologies, may increase competition for certain of our retail tenants.

Any of the foregoing factors could adversely affect the financial condition of our tenants and the willingness of retailers to lease space in our shopping centers. In turn, these conditions could negatively affect market rents for retail space and could materially and adversely affect our financial condition, results of operations, cash flow, the trading price of our common shares and our ability to satisfy our debt service obligations and to pay distributions to our stockholders.

We face significant competition in the leasing market, which may decrease or prevent increases of the occupancy and rental rates of our properties.

We compete with numerous developers, owners and operators of real estate, many of which own properties similar to ours in the same submarkets in which our properties are located. If our competitors offer space at rental rates below current market rates, or below the rental rates we currently charge our tenants, we may lose existing or potential tenants and we may be pressured to reduce our rental rates below those we currently charge or to offer more substantial rent abatements, tenant improvements, early termination rights or below-market renewal options in order to retain tenants when our tenants' leases expire. As a result, our financial condition, results of operations, cash flow and per share trading price of our common stock could be adversely affected.

We may be required to make rent or other concessions and/or significant capital expenditures to improve our properties in order to retain and attract tenants, causing our financial condition, results of operations, cash flow and per share trading price of our common stock to be adversely affected.

To the extent adverse economic conditions continue in the real estate market and demand for retail space falls, we expect that, upon expiration of leases at our properties, we may be required to make rent or other concessions to tenants, accommodate requests for renovations, build-to-suit remodeling and other improvements or provide additional services to our tenants. As a result, we may have to make significant capital or other expenditures in order to retain tenants whose leases expire and to attract new tenants in sufficient numbers. Additionally, we may need to raise capital to make such expenditures. If we are unable to do so or capital is otherwise unavailable, we may be unable to make the required expenditures. This could result in non-renewals by tenants upon expiration of their leases, which could cause an adverse effect to our financial condition, results of operations, cash flow and per share trading price of our common stock.

The actual rents we receive for the properties in our portfolio may be less than our asking rents, which could negatively impact our ability to generate cash flow growth.

As a result of various factors, including competitive pricing pressure in our submarkets, adverse conditions in the Northeast, Mid-Atlantic, Southeast and Southwest real estate markets, a general economic downturn and the desirability of our properties compared to other properties in our submarkets, we may be unable to realize the asking rents across the properties in our portfolio. In addition, the degree of discrepancy between our asking rents and the actual rents we are able to obtain may vary both from property to property and among different leased spaces within a single property. If we are unable to obtain rental rates that are on average comparable to our asking rents across our portfolio, then our ability to generate cash flow growth will be negatively impacted. In addition, depending on asking rental rates at any given time as compared to expiring leases in our portfolio, from time to time rental rates for expiring leases may be higher than starting rental rates for new leases.

We have and may continue to acquire properties or portfolios of properties through tax deferred contribution transactions, which could result in stockholder dilution and limit our ability to sell such assets.

We have and in the future we may continue to acquire properties or portfolios of properties through tax deferred contribution transactions in exchange for partnership interests in our Operating Partnership, which may result in stockholder dilution. This acquisition structure may have the effect of, among other things, reducing the amount of tax depreciation we could deduct over the tax life of the acquired properties, and may require that we agree to protect the contributors' ability to defer recognition of taxable gain through restrictions on our ability to dispose of the acquired properties and/or the allocation of partnership debt to the contributors to maintain their tax bases. These restrictions could limit our ability to sell an asset at a time, or on terms, that would be favorable absent such restrictions.

Our real estate development activities are subject to risks particular to development, such as unanticipated expenses, delays and other contingencies, any of which could adversely affect our financial condition, results of operations, cash flow and the per share trading price of our common stock.

We may engage in development and redevelopment activities with respect to certain of our properties. To the extent that we do so, we will be subject to the following risks associated with such development and redevelopment activities:

- unsuccessful development or redevelopment opportunities could result in direct expenses to us;
- construction or redevelopment costs of a project may exceed original estimates, possibly making the project less profitable than originally estimated, or unprofitable;
- time required to complete the construction or redevelopment of a project or to lease up the completed project may be greater than originally anticipated, thereby adversely affecting our cash flow and liquidity;
- contractor and subcontractor disputes, strikes, labor disputes or supply disruptions;
- failure to achieve expected occupancy and/or rent levels within the projected time frame, if at all;
- delays with respect to obtaining or the inability to obtain necessary zoning, occupancy, land use and other governmental permits, and changes in zoning and land use laws;
- occupancy rates and rents of a completed project may not be sufficient to make the project profitable;
- our ability to dispose of properties developed or redeveloped with the intent to sell could be impacted by the ability of prospective buyers to obtain financing given the current state of the credit markets; and
- the availability and pricing of financing to fund our development activities on favorable terms or at all.

These risks could result in substantial unanticipated delays or expenses and, under certain circumstances, could prevent completion of development or redevelopment activities once undertaken, any of which could have an adverse effect on our financial condition, results of operations, cash flow and the per share trading price of our common stock.

Our success depends on key personnel whose continued service is not guaranteed, and the loss of one or more of our key personnel could adversely affect our ability to manage our business and to implement our growth strategies, or could create a negative perception in the capital markets.

Our ability to manage anticipated future growth depends, in large part, upon the efforts of key personnel, particularly Mr. Wheeler, who has experience with the market, beneficial relationships and exercises substantial influence over our operational, financing, acquisition and disposition activity. Among the reasons that Mr. Wheeler is important to our success is that he has a national and regional industry reputation that attracts business and investment opportunities and assists us in negotiations with lenders, existing and potential tenants and industry personnel. If we lose his services, our relationships with such persons could diminish.

The loss of services of one or more members of our management team, or our inability to attract and retain highly qualified personnel, could adversely affect our business, diminish our investment opportunities and weaken our relationships with lenders, business partners, existing and prospective tenants and industry participants, which could adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock.

Mr. Wheeler will continue to be involved in outside businesses, which may interfere with his ability to devote time and attention to our business and affairs.

We will rely on Mr. Wheeler and our Administrative Service Company for the day-to-day operations of our business. Our employment agreement with Mr. Wheeler requires him to devote his best efforts and a significant portion of his time to our business and affairs. However, Mr. Wheeler continues to serve as President and Chief Executive Officer of Wheeler Interests, LLC which will continue to be involved in other businesses. As such, Mr. Wheeler will have certain ongoing duties to Wheeler Interests, LLC that could require a portion of his time and attention. Although we expect that Mr. Wheeler will devote a significant amount of his business time and attention to us, we cannot accurately predict the amount of time and attention that will be required of Mr. Wheeler to perform such ongoing duties. To the extent that Mr. Wheeler is required to dedicate time and attention to Wheeler Interests, LLC, his ability to devote a significant amount of his business time and attention to our business and affairs may be limited and could adversely affect our operations.

We may be subject to on-going or future litigation, including existing claims relating to the entities that own the properties described in this prospectus and otherwise in the ordinary course of business, which could have a material adverse effect on our financial condition, results of operations, cash flow and per share trading price of our common stock.

We may be subject to on-going litigation, including existing claims relating to the entities that own the properties and operate the businesses described in this prospectus and otherwise in the ordinary course of business. Some of these claims may result in significant defense costs and potentially significant judgments against us, some of which are not, or cannot be, insured against. We generally intend to vigorously defend ourselves; however, we cannot be certain of the ultimate outcomes of currently asserted claims or of those that may arise in the future. Resolution of these types of matters against us may result in our having to pay significant fines, judgments, or settlements, which, if uninsured, or if the fines, judgments, and settlements exceed insured levels, could adversely impact our earnings and cash flows, thereby having an adverse effect on our financial condition, results of operations, cash flow and per share trading price of our common stock. Certain litigation or the resolution of certain litigation may affect the availability or cost of some of our insurance coverage, which could adversely impact our results of operations and cash flows, expose us to increased risks that would be uninsured, and/or adversely impact our ability to attract officers and directors.

On July 10, 2008, one of our subsidiaries, Perimeter Associates, LLC (“Perimeter”), sued a tenant for breach of contract, guaranty of the contract and fraud related to an executed lease. In response, on August 22, 2008, the defendant filed a counterclaim against Perimeter for breach of contract, unjust enrichment, reliance and fraud. On April 8, 2013, the court found in favor of the defendant and assessed damages against Perimeter in the amount of $13,300. On or about May 8, 2013, Perimeter appealed the judgment of the lower court to the Oklahoma Supreme Court. Subsequent to the initial judgment, the defendant’s attorney applied to the court to be reimbursed for approximately $368,000 in legal fees incurred by the defendant during litigation. On July 9, 2013, the lower court awarded the defendant approximately $267,000 of the defendant’s legal fees. Perimeter expects to amend its appeal with the Oklahoma Supreme Court to include the issue of the award of legal fees. We have posted bonds for both judgments and have accrued for the judgments in our financial statements as of June 30, 2014. We will continue to vigorously litigate the issues raised upon appeal.

We may not be able to rebuild our existing properties to their existing specifications if we experience a substantial or comprehensive loss of such properties.

In the event that we experience a substantial or comprehensive loss of one of our properties, we may not be able to rebuild such property to its existing specifications. Further, reconstruction or improvement of such a property would likely require significant upgrades to meet zoning and building code requirements. Environmental and legal restrictions could also restrict the rebuilding of our properties.

Potential losses may not be covered by insurance or may exceed policy limits and we could incur significant costs and lose our equity in the damaged properties.

We carry comprehensive liability insurance policies, covering all of our properties. Our insurance coverage contains policy specifications and insured limits customarily carried for similar properties and business activities. If a loss or damages are suffered at one or more of our properties, our insurer may attempt to limit or void our coverage by arguing that the loss resulted from facts or circumstances not covered by our policy. Furthermore, if we experience a loss that is uninsured or that exceeds our policy limits, we could incur significant costs and lose the capital invested in the damaged or otherwise adversely affected properties as well as the anticipated future cash flows from those properties.

Because Mr. Wheeler and our Administrative Service Company are not prohibited from creating further real estate programs that may use investment strategies that are similar to ours, our Administrative Service Company and its and our executive officers may face conflicts of interest relating to the purchase and leasing of properties and other investments, and such conflicts may not be resolved in our favor.

If Mr. Wheeler or our Administrative Service Company were to create additional real estate programs, there may be periods during which one or more such sponsored programs are seeking to invest in similar properties and other real estate-related investments. As a result, we may be buying properties and other real estate-related investments at the same time as one or more other such sponsored programs managed by officers and employees of our Administrative Service Company, and these other such sponsored programs may use investment strategies that are similar to ours. There is a risk that our Administrative Service Company will choose a property that provides lower returns to us than a property purchased by another program. In the event these conflicts arise, we cannot assure you that our best interests will be met when officers and employees acting on behalf of our Administrative Service Company and on behalf of other such sponsored programs decide whether to allocate any particular property to us or to another such sponsored program or affiliate of our Administrative Service Company or Mr. Wheeler, which may have an investment strategy that is similar to ours. In addition, we may acquire properties in geographic areas where such future sponsored programs own properties. If one of the other such sponsored programs attracts a tenant that we are competing for, we could suffer a loss of revenue due to delays in locating another suitable tenant. You will not have the opportunity to evaluate the manner in which these conflicts of interest are resolved before or after making your investment.

Our Administrative Service Company will face conflicts of interest caused by its arrangements with us, which could result in actions that are not in the long-term best interests of our stockholders.

Our Administrative Service Company is entitled to fees from us under the terms of the Administrative Service Agreement. Mr. Wheeler wholly owns our Administrative Service Company. As a result, we did not have the benefit of arm's length negotiation of the type normally conducted between unrelated parties when this agreement was negotiated. These fees could influence our Administrative Service Company's advice to us as well as the judgment of the Services Companies performing services for us. Among other matters, these compensation arrangements could affect their judgment with respect to:

- the continuation, renewal or enforcement of the Administrative Service Agreement;
- property acquisitions from third parties, which entitle our Administrative Service Company to asset management fees; and

- borrowings to acquire properties, which acquisitions will increase the aggregate fees payable to our Administrative Service Company.

Wheeler Interests, LLC and other entities owned by Mr. Wheeler will face conflicts of interest caused by their arrangements with us, which could result in actions that are not in the long-term best interests of our stockholders.

We have entered agreements with entities owned by Mr. Wheeler, including Wheeler Interests, LLC, Wheeler Real Estate, LLC and Site Applications, LLC. These entities provide property and asset management, and smaller property improvements in exchange for a fee. As a result, we did not have the benefit of arm's length negotiations of the type normally conducted between unrelated parties with regards to the asset management fee. These fees could influence the services provided to us, as well as their judgment in performing services for us. Among other matters, this fee arrangement could affect their judgment with respect to:

- the continuation, renewal or enforcement and amount of their respective fees; and
- decisions to acquire properties, which will increase the aggregate fees payable to these entities.

Joint venture investments could be adversely affected by our lack of sole decision-making authority, our reliance on co-venturers' financial condition and disputes between us and our co-venturers.

We may co-invest in the future with other third parties through partnerships, joint ventures or other entities, acquiring non-controlling interests in or sharing responsibility for managing the affairs of a property, partnership, joint venture or other entity. Consequently, with respect to any such arrangement we may enter into in the future, we would not be in a position to exercise sole decision-making authority regarding the property, partnership, joint venture or other entity. Investments in partnerships, joint ventures or other entities may, under certain circumstances, involve risks not present were a third party not involved, including the possibility that partners or co-venturers might become bankrupt or fail to fund their share of required capital contributions. Partners or co-venturers may have economic or other business interests or goals which are inconsistent with our business interests or goals, and may be in a position to take actions contrary to our policies or objectives, and they may have competing interests in our markets that could create conflict of interest issues. Such investments may also have the potential risk of impasses on decisions, such as a sale, because neither we nor the partner or co-venturer would have full control over the partnership or joint venture. In addition, a sale or transfer by us to a third party of our interests in the joint venture may be subject to consent rights or rights of first refusal, in favor of our joint venture partners, which would in each case restrict our ability to dispose of our interest in the joint venture. Where we are a limited partner or non-managing member in any partnership or limited liability company, if such entity takes or expects to take actions that could jeopardize our status as a REIT or require us to pay tax, we may be forced to dispose of our interest in such entity. Disputes between us and partners or co-venturers may result in litigation or arbitration that would increase our expenses and prevent our officers and/or directors from focusing their time and effort on our business. Consequently, actions by or disputes with partners or co-venturers might result in subjecting properties owned by the partnership or joint venture to additional risk. In addition, we may in certain circumstances be liable for the actions of our third-party partners or co-venturers. Our joint ventures may be subject to debt and, in the current volatile credit market, the refinancing of such debt may require equity capital calls.

Our growth depends on external sources of capital that are outside of our control and may not be available to us on commercially reasonable terms or at all, which could limit our ability, among other things, to meet our capital and operating needs or make the cash distributions to our stockholders necessary to maintain our qualification as a REIT.

In order to maintain our qualification as a REIT, we are required under the Code, among other things, to distribute annually at least 90% of our REIT taxable income, determined without regard to the dividends paid deduction and excluding any net capital gain. In addition, we will be subject to income tax at regular corporate rates to the extent that we distribute less than 100% of our REIT taxable income, including any net capital gains. Because of these distribution requirements, we may not be able to fund future capital needs, including any

necessary acquisition financing, from operating cash flow. Consequently, we intend to rely on third-party sources to fund our capital needs. We may not be able to obtain such financing on favorable terms or at all and any additional debt we incur will increase our leverage and likelihood of default. Our access to third-party sources of capital depends, in part, on:

- general market conditions;
- the market's perception of our growth potential;
- our current debt levels;
- our current and expected future earnings;
- our cash flow and cash distributions; and
- the market price per share of our common stock.

Recently, the capital markets have been subject to significant disruptions. If we cannot obtain capital from third-party sources, we may not be able to acquire or develop properties when strategic opportunities exist, meet the capital and operating needs of our existing properties, satisfy our debt service obligations or make the cash distributions to our stockholders necessary to maintain our qualification as a REIT.

Risks Related to the Real Estate Industry

Our performance and value are subject to risks associated with real estate assets and the real estate industry, including local oversupply, reduction in demand or adverse changes in financial conditions of buyers, sellers and tenants of properties, which could decrease revenues or increase costs, which would adversely affect our financial condition, results of operations, cash flow and the per share trading price of our common stock.

Our ability to pay expected dividends to our stockholders depends on our ability to complete future acquisitions as well as our ability to generate revenues in excess of expenses, scheduled principal payments on debt and capital expenditure requirements. Events and conditions generally applicable to owners and operators of real property that are beyond our control may decrease cash available for distribution and the value of our properties. These events include many of the risks set forth above under "—Risks Related to Our Business and Operations," as well as the following:

- local oversupply or reduction in demand for retail space;
- adverse changes in financial conditions of buyers, sellers and tenants of properties;
- vacancies or our inability to rent space on favorable terms, including possible market pressures to offer tenants rent abatements, tenant improvements, early termination rights or below-market renewal options, and the need to periodically repair, renovate and re-let space;
- increased operating costs, including insurance premiums, utilities, real estate taxes and state and local taxes;
- civil unrest, acts of war, terrorist attacks and natural disasters, including earthquakes and floods, which may result in uninsured or underinsured losses;
- decreases in the underlying value of our real estate;
- changing submarket demographics; and
- changing traffic patterns.

In addition, periods of economic downturn or recession, rising interest rates or declining demand for real estate, or the public perception that any of these events may occur, could result in a general decline in rents or an increased incidence of defaults under existing leases, which would adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock.

Illiquidity of real estate investments could significantly impede our ability to respond to adverse changes in the performance of our properties and harm our financial condition.

The real estate investments made, and to be made, by us are relatively difficult to sell quickly. As a result, our ability to promptly sell one or more properties in our portfolio in response to changing economic, financial and investment conditions is limited. Return of capital and realization of gains, if any, from an investment generally will occur upon disposition or refinancing of the underlying property. We may be unable to realize our investment objectives by sale, other disposition or refinancing at attractive prices within any given period of time or may otherwise be unable to complete any exit strategy. In particular, our ability to dispose of one or more properties within a specific time period is subject to weakness in or even the lack of an established market for a property, changes in the financial condition or prospects of prospective purchasers, changes in national or international economic conditions, such as the current economic downturn, and changes in laws, regulations or fiscal policies of jurisdictions in which the property is located.

In addition, the Code imposes restrictions on a REIT's ability to dispose of properties that are not applicable to other types of real estate companies. In particular, the tax laws applicable to REITs effectively require that we hold our properties for investment, rather than primarily for sale in the ordinary course of business, which may cause us to forego or defer sales of properties that otherwise would be in our best interest. Therefore, we may not be able to vary our portfolio in response to economic or other conditions promptly or on favorable terms, which may adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock.

Our property taxes could increase due to property tax rate changes or reassessment, which would adversely impact our cash flows.

Even if we qualify as a REIT for federal income tax purposes, we will be required to pay some state and local taxes on our properties. The real property taxes on our properties may increase as property tax rates change or as our properties are assessed or reassessed by taxing authorities. The amount of property taxes we pay in the future may increase substantially from what we have paid in the past. If the property taxes we pay increase, our cash flow would be adversely impacted, and our ability to pay any expected dividends to our stockholders could be adversely affected.

As an owner of real estate, we could incur significant costs and liabilities related to environmental matters.

Under various federal, state and local laws and regulations relating to the environment, as a current or former owner or operator of real property, we may be liable for costs and damages resulting from the presence or discharge of hazardous or toxic substances, waste or petroleum products at, on, in, under or migrating from such property, including costs to investigate, clean up such contamination and liability for harm to natural resources. Such laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the presence of such contamination, and the liability may be joint and several. These liabilities could be substantial and the cost of any required remediation, removal, fines or other costs could exceed the value of the property and/or our aggregate assets. In addition, the presence of contamination or the failure to remediate contamination at our properties may expose us to third-party liability for costs of remediation and/or personal or property damage or materially adversely affect our ability to sell, lease or develop our properties or to borrow using the properties as collateral. In addition, environmental laws may create liens on contaminated sites in favor of the government for damages and costs it incurs to address such contamination. Moreover, if contamination is discovered on our properties, environmental laws may impose restrictions on the manner in which property may be used or businesses may be operated, and these restrictions may require substantial expenditures.

Additionally, we possess Phase I Environmental Site Assessments for all of the properties in our portfolio. However, the assessments are limited in scope (e.g., they do not generally include soil sampling, subsurface investigations, hazardous materials surveys or lead-based paint inspections or asbestos inspections) and may have

failed to identify all environmental conditions or concerns. Furthermore, the Phase I Environmental Site Assessment reports for all of the properties in our portfolio are limited to the information available to the licensed site professional at the time of the investigation, and, as such, may not disclose all potential or existing environmental contamination liabilities at the properties in our portfolio arising after the date of such investigation. As a result, we could potentially incur material liability for these issues, which could adversely impact our financial condition, results of operations, cash flow and the per share trading price of our common stock. Some of the Phase I Environmental Site Assessments in our possession indicate the possibility of lead-based paint and asbestos containing materials located on and within buildings on some of our properties and polychlorinated biphenyl-containing electrical transformers located or adjacent to some of our properties. However, management believes that the potential liabilities resulting from removing these items would be immaterial.

As the owner of the buildings on our properties, we could face liability for the presence of hazardous materials (e.g., asbestos or lead) or other adverse conditions (e.g., poor indoor air quality) in our buildings. Environmental laws govern the presence, maintenance, and removal of hazardous materials in buildings, and if we do not comply with such laws, we could face fines for such noncompliance. Also, we could be liable to third parties (e.g., occupants of the buildings) for damages related to exposure to hazardous materials or adverse conditions in our buildings, and we could incur material expenses with respect to abatement or remediation of hazardous materials or other adverse conditions in our buildings. In addition, some of our tenants routinely handle and use hazardous or regulated substances and wastes as part of their operations at our properties, which are subject to regulation. Such environmental and health and safety laws and regulations could subject us or our tenants to liability resulting from these activities. Environmental liabilities could affect a tenant's ability to make rental payments to us, and changes in laws could increase the potential liability for noncompliance. This may result in significant unanticipated expenditures or may otherwise materially and adversely affect our operations, or those of our tenants, which could in turn have an adverse effect on us.

We cannot assure you that costs or liabilities incurred as a result of environmental issues will not affect our ability to make distributions to you or that such costs or other remedial measures will not have an adverse effect on our financial condition, results of operations, cash flow and per share trading price of our common stock. If we do incur material environmental liabilities in the future, we may face significant remediation costs, and we may find it difficult to sell any affected properties.

Our properties may contain or develop harmful mold or suffer from other air quality issues, which could lead to liability for adverse health effects and costs of remediation.

When excessive moisture accumulates in buildings or on building materials, mold growth may occur, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Some molds may produce airborne toxins or irritants. Indoor air quality issues can also stem from inadequate ventilation, chemical contamination from indoor or outdoor sources, and other biological contaminants such as pollen, viruses and bacteria. Indoor exposure to airborne toxins or irritants above certain levels can be alleged to cause a variety of adverse health effects and symptoms, including allergic or other reactions. As a result, the presence of significant mold or other airborne contaminants at any of our properties could require us to undertake a costly remediation program to contain or remove the mold or other airborne contaminants from the affected property or increase indoor ventilation. In addition, the presence of significant mold or other airborne contaminants could expose us to liability from our tenants, employees of our tenants or others if property damage or personal injury is alleged to have occurred.

We may incur significant costs complying with various federal, state and local laws, regulations and covenants that are applicable to our properties.

The properties in our portfolio are subject to various covenants and federal, state and local laws and regulatory requirements, including permitting and licensing requirements. Local regulations, including municipal or local ordinances, zoning restrictions and restrictive covenants imposed by community developers may restrict

our use of our properties and may require us to obtain approval from local officials or restrict our use of our properties and may require us to obtain approval from local officials of community standards organizations at any time with respect to our properties, including prior to acquiring a property or when undertaking renovations of any of our existing properties. Among other things, these restrictions may relate to fire and safety, seismic or hazardous material abatement requirements. There can be no assurance that existing laws and regulatory policies will not adversely affect us or the timing or cost of any future acquisitions or renovations, or that additional regulations will not be adopted that increase such delays or result in additional costs. Our growth strategy may be affected by our ability to obtain permits, licenses and zoning relief. Our failure to obtain such permits, licenses and zoning relief or to comply with applicable laws could have an adverse effect on our financial condition, results of operations, cash flow and per share trading price of our common stock.

In addition, federal and state laws and regulations, including laws such as the Americans with Disabilities Act (the "ADA") and the Fair Housing Amendment Act of 1988 (the "FHAA"), impose further restrictions on our properties and operations. Under the ADA and the FHAA, all public accommodations must meet federal requirements related to access and use by disabled persons. Some of our properties may currently be in non-compliance with the ADA or the FHAA. If one or more of the properties in our portfolio is not in compliance with the ADA, the FHAA or any other regulatory requirements, we may be required to incur additional costs to bring the property into compliance and we might incur governmental fines or the award of damages to private litigants. In addition, we do not know whether existing requirements will change or whether future requirements will require us to make significant unanticipated expenditures that will adversely impact our financial condition, results of operations, cash flow and per share trading price of our common stock.

Risks Related to Our Organizational Structure

Conflicts of interest may exist or could arise in the future between the interests of our stockholders and the interests of holders of units in our Operating Partnership, which may impede business decisions that could benefit our stockholders.

Conflicts of interest may exist or could arise in the future as a result of the relationships between us and our affiliates, on the one hand, and our Operating Partnership or any partner thereof, on the other. Our directors and officers have duties to our company under Maryland law in connection with their management of our company. At the same time, we, as the general partner of our Operating Partnership, have fiduciary duties and obligations to our Operating Partnership and its limited partners under Virginia law and the Partnership Agreement of our Operating Partnership in connection with the management of our Operating Partnership. Our fiduciary duties and obligations as the general partner of our Operating Partnership may come into conflict with the duties of our directors and officers to our company.

Under Virginia law, a general partner of a Virginia limited partnership has fiduciary duties of loyalty and care to the partnership and its partners and must discharge its duties and exercise its rights as general partner under the Partnership Agreement or Virginia law consistently with the obligation of good faith and fair dealing. The Partnership Agreement provides that, in the event of a conflict between the interests of our Operating Partnership or any partner, on the one hand, and the separate interests of our company or our stockholders, on the other hand, we, in our capacity as the general partner of our Operating Partnership, are under no obligation not to give priority to the separate interests of our company or our stockholders, and that any action or failure to act on our part or on the part of our directors that gives priority to the separate interests of our company or our stockholders that does not result in a violation of the contract rights of the limited partners of the Operating Partnership under its Partnership Agreement does not violate the duty of loyalty that we, in our capacity as the general partner of our Operating Partnership, owe to the Operating Partnership and its partners.

Additionally, the Partnership Agreement provides that we will not be liable to the Operating Partnership or any partner for monetary damages for losses sustained, liabilities incurred or benefits not derived by the Operating Partnership or any limited partner, except for liability for our intentional harm or gross negligence. Our Operating Partnership must indemnify us, our directors and officers, officers of our Operating Partnership

and our designees from and against any and all claims that relate to the operations of our Operating Partnership, unless (1) an act or omission of the person was material to the matter giving rise to the action and either was committed in bad faith or was the result of active and deliberate dishonesty, (2) the person actually received an improper personal benefit in violation or breach of the Partnership Agreement or (3) in the case of a criminal proceeding, the indemnified person had reasonable cause to believe that the act or omission was unlawful. Our Operating Partnership must also pay or reimburse the reasonable expenses of any such person upon its receipt of a written affirmation of the person's good faith belief that the standard of conduct necessary for indemnification has been met and a written undertaking to repay any amounts paid or advanced if it is ultimately determined that the person did not meet the standard of conduct for indemnification. Our Operating Partnership will not indemnify or advance funds to any person with respect to any action initiated by the person seeking indemnification without our approval (except for any proceeding brought to enforce such person's right to indemnification under the Partnership Agreement) or if the person is found to be liable to our Operating Partnership on any portion of any claim in the action.

Our charter and bylaws and Maryland law contain provisions that may delay, defer or prevent a change of control transaction that might involve a premium price for our common stock or that our stockholders otherwise believe to be in their best interest.

Our charter contains certain Ownership Limits with respect to our stock. Our charter, subject to certain exceptions, authorizes our board of directors to take such actions as it determines are advisable to preserve our qualification as a REIT. Our charter also prohibits the actual, beneficial or constructive ownership by any person of more than 9.8% in value or number of shares, whichever is more restrictive, of the outstanding shares of our common stock or more than 9.8% in value of the aggregate outstanding shares of all classes and series of our stock, excluding any shares that are not treated as outstanding for federal income tax purposes. Our board of directors, in its sole and absolute discretion, may exempt a person, prospectively or retroactively, from these Ownership Limits if certain conditions are satisfied. See "Description of Securities—Restrictions on Ownership and Transfer." The restrictions on ownership and transfer of our stock may:

- discourage a tender offer or other transactions or a change in management or of control that might involve a premium price for our common stock or that our stockholders otherwise believe to be in their best interests; or
- result in the transfer of shares acquired in excess of the restrictions to a trust for the benefit of a charitable beneficiary and, as a result, the forfeiture by the acquirer of the benefits of owning the additional shares.

We could increase the number of authorized shares of stock, classify and reclassify unissued stock and issue stock without stockholder approval. Our board of directors, without stockholder approval, has the power under our charter to amend our charter to increase the aggregate number of shares of stock or the number of shares of stock of any class or series that we are authorized to issue, to authorize us to issue authorized but unissued shares of our common stock or preferred stock and to classify or reclassify any unissued shares of our common stock or preferred stock into one or more classes or series of stock and set the terms of such newly classified or reclassified shares. See "Description of Securities—Power to Increase or Decrease Authorized Shares of Common Stock and Issue Additional Shares of Common and Preferred Stock." As a result, we may issue series or classes of common stock or preferred stock with preferences, dividends, powers and rights, voting or otherwise, that are senior to, or otherwise conflict with, the rights of holders of our common stock. Although our board of directors has no such intention at the present time, it could establish a class or series of preferred stock that could, depending on the terms of such series, delay, defer or prevent a transaction or a change of control that might involve a premium price for our common stock or that our stockholders otherwise believe to be in their best interest.

Certain provisions of Maryland law could inhibit changes in control, which may discourage third parties from conducting a tender offer or seeking other change of control transactions that could involve a premium price for our common stock or that our stockholders otherwise believe to be in their best interest. Certain provisions of the Maryland General Corporation Law (the "MGCL"), may have the effect of inhibiting a third

party from making a proposal to acquire us or of impeding a change of control under circumstances that otherwise could provide the holders of shares of our common stock with the opportunity to realize a premium over the then-prevailing market price of such shares, including:

- "business combination" provisions that, subject to limitations, prohibit certain business combinations between us and an "interested stockholder" (defined generally as any person who beneficially owns 10% or more of the voting power of our shares or an affiliate thereof or an affiliate or associate of ours who was the beneficial owner, directly or indirectly, of 10% or more of the voting power of our then outstanding voting stock at any time within the two-year period immediately prior to the date in question) for five years after the most recent date on which the stockholder becomes an interested stockholder, and thereafter impose fair price and/or supermajority and stockholder voting requirements on these combinations; and
- "control share" provisions that provide that "control shares" of our company (defined as shares that, when aggregated with other shares controlled by the stockholder, entitle the stockholder to exercise one of three increasing ranges of voting power in electing directors) acquired in a "control share acquisition" (defined as the direct or indirect acquisition of ownership or control of issued and outstanding "control shares") have no voting rights with respect to their control shares, except to the extent approved by our stockholders by the affirmative vote of at least two-thirds of all the votes entitled to be cast on the matter, excluding all interested shares.

We have opted out of these provisions of the MGCL, in the case of the business combination provisions of the MGCL, by resolution of our board of directors and, in the case of the control share provisions, by a provision in our bylaws. However, we cannot assure you that our board of directors will not opt to be subject to such business combination and control share provisions of the MGCL in the future.

Certain provisions of the MGCL permit our board of directors, without stockholder approval and regardless of what is currently provided in our charter or bylaws, to implement certain corporate governance provisions, some of which are not currently applicable to us. These provisions may have the effect of limiting or precluding a third party from making an unsolicited acquisition proposal for us or of delaying, deferring or preventing a change in control of us under circumstances that otherwise could provide the holders of shares of our common stock with the opportunity to realize a premium over the then current market price. Our charter contains a provision whereby we elect, at such time as we become eligible to do so, to be subject to the provisions of Title 3, Subtitle 8 of the MGCL relating to the filling of vacancies on our board of directors. See "Material Provisions of Maryland Law and of Our Charter and Bylaws."

We may pursue less vigorous enforcement of terms of the contribution and subscription agreements or purchase and sale agreements with members of our management and our affiliates because of our dependence on them and conflicts of interest.

Mr. Wheeler has in the past and may in the future be a party, whether directly or indirectly, to contribution and subscription agreements or purchase and sale agreements with us pursuant to which we acquired or will acquire interests in properties and assets. In addition, our other executive officers are parties to employment agreements with us. We may choose not to enforce, or to enforce less vigorously, our rights under these agreements because of our desire to maintain our ongoing relationships with members of our management and their affiliates, which could negatively impact our stockholders.

Our board of directors may change our investment and financing policies without stockholder approval and we may become more highly leveraged, which may increase our risk of default under our debt obligations.

Our investment and financing policies are exclusively determined by our board of directors. Accordingly, our stockholders do not control these policies. Further, while we have agreed with our underwriters that our board of directors will review our ratio of debt to total capital on a quarterly basis, with the goal of maintaining a reasonable rate consistent with our expected ratio of debt to total market capitalization going forward, our charter and bylaws do not limit the amount or percentage of indebtedness, funded or otherwise, that we may incur. Our

board of directors may alter or eliminate our current policy on borrowing at any time without stockholder approval. If this policy changed, we could become more highly leveraged which could result in an increase in our debt service. Higher leverage also increases the risk of default on our obligations. In addition, a change in our investment policies, including the manner in which we allocate our resources across our portfolio or the types of assets in which we seek to invest, may increase our exposure to interest rate risk, real estate market fluctuations and liquidity risk. Changes to our policies with regard to the foregoing could adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock.

Our rights and the rights of our stockholders to take action against our directors and officers are limited.

As permitted by Maryland law, our charter eliminates the liability of our directors and officers to us and our stockholders for money damages, except for liability resulting from:

- actual receipt of an improper benefit or profit in money, property or services; or
- a final judgment based upon a finding of active and deliberate dishonesty by the director or officer that was material to the cause of action adjudicated.

As a result, we and our stockholders may have more limited rights against our directors and officers than might otherwise exist. Accordingly, in the event that actions taken in good faith by any of our directors or officers impede the performance of our company, your ability to recover damages from such director or officer will be limited.

We are a holding company with no direct operations and, as such, we will rely on funds received from our Operating Partnership to pay liabilities, and the interests of our stockholders will be structurally subordinated to all liabilities and obligations of our Operating Partnership and its subsidiaries.

We are a holding company and will conduct substantially all of our operations through our Operating Partnership. We do not have, apart from an interest in our Operating Partnership, any independent operations. As a result, we will rely on distributions from our Operating Partnership to pay any dividends we might declare on shares of our common stock. We will also rely on distributions from our Operating Partnership to meet any of our obligations, including any tax liability on taxable income allocated to us from our Operating Partnership. In addition, because we are a holding company, your claims as stockholders will be structurally subordinated to all existing and future liabilities and obligations (whether or not for borrowed money) of our Operating Partnership and its subsidiaries. Therefore, in the event of our bankruptcy, liquidation or reorganization, our assets and those of our Operating Partnership and its subsidiaries will be available to satisfy the claims of our stockholders only after all of our and our Operating Partnership's and its subsidiaries' liabilities and obligations have been paid in full.

Our Operating Partnership may issue additional partnership units to third parties without the consent of our stockholders, which would reduce our ownership percentage in our Operating Partnership and would have a dilutive effect on the amount of distributions made to us by our Operating Partnership and, therefore, the amount of distributions we can make to our stockholders.

We currently own 85.26% of the outstanding common units, and we may, in connection with our acquisition of properties or otherwise, issue additional partnership units to third parties. Such issuances would reduce our ownership percentage in our Operating Partnership and affect the amount of distributions made to us by our Operating Partnership and, therefore, the amount of distributions we can make to our stockholders. Because you will not directly own partnership units, you will not have any voting rights with respect to any such issuances or other partnership level activities of our Operating Partnership.

Loss of our exemption from regulation pursuant to the Investment Company Act of 1940 would adversely affect us.

We conduct our business so as not to become regulated as an investment company under the Investment Company Act of 1940 (the "1940 Act") in reliance on the exemption provided by Section 3(c)(5)(C) of the 1940 Act. Section 3(c)(5)(C), as interpreted by the staff of the SEC, requires that: (i) at least 55% of our investment

portfolio consist of "mortgages and other liens on and interest in real estate," or "qualifying real estate interests," and (ii) at least 80% of our investment portfolio consist of qualifying real estate interests plus "real estate-related assets." If we fail to qualify for an exemption from registration as an investment company or an exclusion from the definition of an investment company, our ability to use leverage would be substantially reduced. Our business will be materially and adversely affected if we fail to qualify for this exemption from regulation pursuant to the 1940 Act.

Risks Related to Our Status as a REIT

Failure to qualify as a REIT would have significant adverse consequences to us and the value of our common stock.

We have elected to be taxed and to operate in a manner that will allow us to qualify as a REIT for federal income tax purposes. We have not requested and do not plan to request a ruling from the Internal Revenue Service (the "IRS") that we qualify as a REIT, and the statements in the prospectus are not binding on the IRS or any court. Therefore, we cannot assure you that we will continue to qualify as a REIT, or that we will remain qualified as such in the future. If we lose our REIT status, we will face serious tax consequences that would substantially reduce the funds available for distribution to you for each of the years involved because:

- we would not be allowed a deduction for distributions to stockholders in computing our taxable income and would be subject to federal income tax at regular corporate rates;
- we also could be subject to the federal alternative minimum tax and possibly increased state and local taxes; and
- unless we are entitled to relief under applicable statutory provisions, we could not elect to be taxed as a REIT for four taxable years following the year during which we were disqualified.

Any such corporate tax liability could be substantial and would reduce our cash available for, among other things, our operations and distributions to stockholders. In addition, if we fail to qualify as a REIT, we will not be required to make distributions to our stockholders. As a result of all these factors, our failure to qualify as a REIT also could impair our ability to expand our business and raise capital, and could materially and adversely affect the value of our common stock.

Qualification as a REIT involves the application of highly technical and complex Code provisions for which there are only limited judicial and administrative interpretations. The complexity of these provisions and of the applicable Treasury regulations that have been promulgated under the Code, or the Treasury Regulations, is greater in the case of a REIT that, like us, holds its assets through a partnership. The determination of various factual matters and circumstances not entirely within our control may affect our ability to qualify as a REIT. In order to qualify as a REIT, we must satisfy a number of requirements, including requirements regarding the ownership of our stock, requirements regarding the composition of our assets and a requirement that at least 95% of our gross income in any year must be derived from qualifying sources, such as "rents from real property." Also, we must make distributions to stockholders aggregating annually at least 90% of our REIT taxable income, excluding net capital gains. In addition, legislation, new regulations, administrative interpretations or court decisions may materially adversely affect our investors, our ability to qualify as a REIT for federal income tax purposes or the desirability of an investment in a REIT relative to other investments.

Even if we continue to qualify as a REIT for federal income tax purposes, we may be subject to some federal, state and local income, property and excise taxes on our income or property and, in certain cases, a 100% penalty tax, in the event we sell property as a dealer. In addition, our taxable REIT subsidiaries will be subject to tax as regular corporations in the jurisdictions they operate.

If our Operating Partnership fails to continue to qualify as a partnership for federal income tax purposes, we would cease to qualify as a REIT and suffer other adverse consequences.

We believe that our Operating Partnership will continue to be treated as a partnership for federal income tax purposes. As a partnership, our Operating Partnership will not be subject to federal income tax on its income. Instead, each of its partners, including us, will be allocated, and may be required to pay tax with respect to, its share of our Operating Partnership's income. We cannot assure you, however, that the IRS will not challenge the status of our Operating Partnership or any other subsidiary partnership in which we own an interest as a partnership for federal income tax purposes, or that a court would not sustain such a challenge. If the IRS were successful in treating our Operating Partnership or any such other subsidiary partnership as an entity taxable as a corporation for federal income tax purposes, we would fail to meet the gross income tests and certain of the asset tests applicable to REITs and, accordingly, we would likely cease to continue to qualify as a REIT. Also, the failure of our Operating Partnership or any subsidiary partnerships to continue to qualify as a partnership could cause it to become subject to federal and state corporate income tax, which would reduce significantly the amount of cash available for debt service and for distribution to its partners, including us.

To maintain our REIT status, we may be forced to borrow funds during unfavorable market conditions, and the unavailability of such capital on favorable terms at the desired times, or at all, may cause us to curtail our investment activities and/or to dispose of assets at inopportune times, which could adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock.

To continue to qualify as a REIT, we generally must distribute to our stockholders at least 90% of our REIT taxable income each year, excluding net capital gains, and we will be subject to regular corporate income taxes to the extent that we distribute less than 100% of our REIT taxable income each year. In addition, we will be subject to a 4% nondeductible excise tax on the amount, if any, by which distributions paid by us in any calendar year are less than the sum of 85% of our ordinary income, 95% of our capital gain net income and 100% of our undistributed income from prior years. In order to maintain our REIT status and avoid the payment of income and excise taxes, we may need to borrow funds to meet the REIT distribution requirements even if the then prevailing market conditions are not favorable for these borrowings. These borrowing needs could result from, among other things, differences in timing between the actual receipt of cash and inclusion of income for federal income tax purposes, or the effect of non-deductible capital expenditures, the creation of reserves or required debt or amortization payments. These sources, however, may not be available on favorable terms or at all. Our access to third-party sources of capital depends on a number of factors, including the market's perception of our growth potential, our current debt levels, the market price of our common stock, and our current and potential future earnings. We cannot assure you that we will have access to such capital on favorable terms at the desired times, or at all, which may cause us to curtail our investment activities and/or to dispose of assets at inopportune times, and could adversely affect our financial condition, results of operations, cash flow and per share trading price of our common stock.

We may in the future choose to pay dividends in our common stock, in which case you may be required to pay tax in excess of the cash you receive.

We may distribute taxable dividends that are payable in our stock. Taxable stockholders receiving such dividends will be required to include the full amount of the dividend as ordinary income to the extent of our current and accumulated earnings and profits for federal income tax purposes. As a result, a U.S. stockholder may be required to pay tax with respect to such dividends in excess of the cash received. If a U.S. stockholder sells the stock it receives as a dividend in order to pay this tax, the sales proceeds may be less than the amount included in income with respect to the dividend, depending on the market price of our stock at the time of the sale. For more information on the tax consequences of distributions with respect to our common stock, see "Federal Income Tax Considerations." Furthermore, with respect to non-U.S. stockholders, we may be required to withhold U.S. tax with respect to such dividends, including in respect of all or a portion of such dividend that is payable in stock. In addition, if a significant number of our stockholders determine to sell shares of our stock in order to pay taxes owed on dividends, such sales may have an adverse effect on the per share trading price of our common stock.

Dividends payable by REITs do not qualify for the reduced tax rates available for some dividends.

The maximum tax rate applicable to income from "qualified dividends" payable to U.S. stockholders that are individuals, trusts and estates is 20%. Dividends payable by REITs, however, generally are not eligible for the 20% rate. Although these rules do not adversely affect the taxation of REITs or dividends payable by REITs, to the extent that the 20% rate continues to apply to regular corporate qualified dividends, investors who are individuals, trusts and estates may perceive investments in REITs to be relatively less attractive than investments in the stocks of non-REIT corporations that pay dividends, which could adversely affect the value of the shares of REITs, including the per share trading price of our common stock.

The tax imposed on REITs engaging in "prohibited transactions" may limit our ability to engage in transactions that would be treated as sales for federal income tax purposes.

A REIT's net income from prohibited transactions is subject to a 100% penalty tax. In general, prohibited transactions are sales or other dispositions of property, other than foreclosure property, held primarily for sale to customers in the ordinary course of business. Although we do not intend to hold any properties that would be characterized as held for sale to customers in the ordinary course of our business, unless a sale or disposition qualifies under certain statutory safe harbors, such characterization is a factual determination and no guarantee can be given that the IRS would agree with our characterization of our properties or that we will always be able to make use of the available safe harbors.

Complying with REIT requirements may affect our profitability and may force us to liquidate or forgo otherwise attractive investments.

To qualify as a REIT, we must continually satisfy tests concerning, among other things, the nature and diversification of our assets, the sources of our income and the amounts we distribute to our stockholders. We may be required to liquidate or forgo otherwise attractive investments in order to satisfy the asset and income tests or to qualify under certain statutory relief provisions. We also may be required to make distributions to stockholders at disadvantageous times or when we do not have funds readily available for distribution. As a result, having to comply with the distribution requirement could cause us to: (1) sell assets in adverse market conditions; (2) borrow on unfavorable terms; or (3) distribute amounts that would otherwise be invested in future acquisitions, capital expenditures or repayment of debt. Accordingly, satisfying the REIT requirements could have an adverse effect on our business results, profitability and ability to execute our business plan. Moreover, if we are compelled to liquidate our investments to meet any of these asset, income or distribution tests, or to repay obligations to our lenders, we may be unable to comply with one or more of the requirements applicable to REITs or may be subject to a 100% tax on any resulting gain if such sales constitute prohibited transactions.

Legislative or other actions affecting REITs could have a negative effect on us, including our ability to qualify as a REIT or the federal income tax consequences of such qualification.

The rules dealing with federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the U.S. Department of the Treasury. Changes to the tax laws, including proposals in draft legislation contained in the Tax Reform Act of 2014, with or without retroactive application, could adversely affect our investors or us. We cannot predict how changes in the tax laws might affect our investors or us. New legislation, Treasury Regulations, administrative interpretations or court decisions could significantly and negatively affect our ability to qualify as a REIT or the federal income tax consequences of such qualification.

Risks Related to this Offering

The Series B Preferred Stock ranks junior to all of our indebtedness and other liabilities.

In the event of our bankruptcy, liquidation, dissolution or winding-up of our affairs, our assets will be available to pay obligations on our Series B Preferred Stock (and other securities ranking on parity with the

Series B Preferred Stock) only after all of our indebtedness and other liabilities have been paid. The rights of holders of such preferred stock to participate in the distribution of our assets will rank junior to the prior claims of our current and future creditors and any future series or class of preferred stock we may issue the ranks senior to the Series B Preferred Stock. If we are forced to liquidate our assets to pay our creditors, we may not have sufficient assets to pay amounts due on any or all of the Series B Preferred Stock then outstanding.

Future offerings of debt or senior equity securities may adversely affect the market price of the Series B Preferred Stock. Additionally, any convertible or exchangeable securities that we issue in the future may have rights, preferences and privileges more favorable than those of the Series B Preferred Stock and may result in dilution to owners of the Series B Preferred Stock. We and, indirectly, our stockholders, will bear the cost of issuing the servicing such securities. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus, holders of the Series B Preferred Stock will bear the risk of our future offerings reducing the market price of the Series B Preferred Stock and diluting the value of their holdings in us.

The Series B Preferred Stock has not been rated.

We have not sought to obtain a rating for the Series B Preferred Stock, and the Series B Preferred Stock may never be rated. It is possible, however, that one or more rating agencies might independently determine to assign a rating to the Series B Preferred Stock or that we may elect to obtain a rating or our Series B Preferred Stock in the future. Furthermore, we may elect to issue other securities for which we may seek to obtain a rating. If any ratings are assigned to the Series B Preferred Stock in the future or if we issue other securities with a rating, such ratings, if they are lower than market expectations or are subsequently lowered or withdrawn, could adversely affect the market for or the market value of the Series B Preferred Stock.

Ratings only reflect the views of the issuing rating agency or agencies and such ratings could at any time be revised downward or withdrawn entirely at the discretion of the issuing rating agency. Further, a rating is not a recommendation to purchase, sell or hold any particular security, including the Series B Preferred Stock. In addition, ratings do not reflect market prices or suitability or a security for a particular investor and any future rating of the Series B Preferred Stock may not reflect all risks related to us and our business, or the structure or market value of the Series B Preferred Stock.

We may issue additional shares of Series B Preferred Stock or additional series of preferred stock that rank senior to or on parity with the Series B Preferred Stock as to dividend rights, rights upon liquidation or voting rights.

We are allowed to issue additional share of Series B Preferred Stock and additional series of preferred stock that could rank senior to or on parity with the Series B Preferred Stock as to dividend payments and rights upon our liquidation, dissolution or winding up of our affairs, without any shareholder consent. The issuance of additional share of Series B Preferred Stock and additional series of preferred stock could have the effect of reducing the amounts available to the Series B Preferred Stock issued in this offering upon our liquidation or dissolution or the winding up of our affairs. It also may reduce dividend payments on the Series B Preferred Stock issued in this offering if we do not have sufficient funds to pay dividends on all Series B Preferred Stock outstanding and other classes of stock with equal priority with respect to dividends.

Future issuances and sales of Series B Preferred Stock or other preferred stock, or the perception that such issuances and sales could occur, may cause prevailing market prices for the Series B Preferred Stock and our common stock to decline and may adversely affect our ability to raise additional capital in the financial markets at times and prices favorable to us.

Our estimated cash available for distribution is insufficient to cover our anticipated annual dividends and distributions paid from sources other than our cash flow from operations, particularly proceeds of this offering, will result in us having fewer funds available for the acquisition of properties, which may adversely affect our ability to fund future distributions with cash flow from operations and may adversely affect your overall return.

We expect that our operating cash flow will be insufficient to cover our anticipated initial monthly distributions to stockholders. See "Distribution Policy." We have paid distributions from sources other than from our cash flow from operations. Until we acquire additional properties, we will not generate sufficient cash flow from operations to pay distributions. Our inability to acquire properties may result in a lower return on your investment than you expect. If we have not generated sufficient cash flow from our operations and other sources, such as from borrowings or sales of additional securities, to fund distributions, we will continue to use the proceeds from this offering. Moreover, our board of directors may change this policy, in its sole discretion, at any time. Distributions made from offering proceeds are a return of capital to stockholders, from which we will have already paid offering and organization expenses in connection with this offering.

By funding distributions, in part, from the proceeds of this offering, we will have less funds available for acquiring properties. As a result, the return you realize on your investment may be reduced. Funding distributions from borrowings could restrict the amount we can borrow for investments, which may affect our profitability. Funding distributions with the sale of assets or the proceeds of the offerings may affect our ability to generate cash flows. Funding distributions from the sale of additional securities could dilute your interest in us if we sell shares of our common stock or securities convertible or exercisable into shares of our common stock to third party investors. Payment of distributions from the mentioned sources could restrict our ability to generate sufficient cash flow from operations, affect our profitability and/or affect the distributions payable to you, any or all of which may have an adverse effect on your investment.

We may not be able to pay dividends or other distributions on the Series B Preferred Stock.

There can be no guarantee that we will have sufficient cash to pay dividends on the Series B Preferred Stock. Our ability to pay dividends may be impaired if any of the risks described in this prospectus were to occur. In addition, payment of our dividends depends upon our earnings, our financial condition, maintenance or our REIT qualification and other factors as our board of directors may deem relevant from time to time. We cannot assure you that our business will generate sufficient cash flow from operations or that future borrowings will available to us in an amount sufficient to enable us to make distributions on our common stock and preferred stock, including the Series B Preferred Stock offered by this prospectus, to pay our indebtedness or to fund out other liquidity needs.

The market price of the Series B Preferred Stock and the Warrants could be substantially affected by various factors.

The market price of the Series B Preferred Stock and the Warrants will depend on many factors, which may change from time to time, including:

- prevailing interest rates, increases in which may have an adverse effect on the market prices of such securities;
- trading prices of securities issued by REITS and other similar companies;
- the annual yield from distributions on our Series B Preferred Stock and common stock, as compared to yields on other financial instruments;
- general economic and financial market conditions;
- government action or regulation;
- the financial condition, performance and prospects of our company and our competitors;

- changes in financial estimates or recommendations by securities analysts with respect to our company, our competitors or our industry;
- our issuance of additional preferred equity or debt securities;
- actual or anticipated variations in our quarterly operating results and those of our competitors; and
- the underlying value of our common stock.

As a result of these and other factors, investors who purchase the Series B Preferred Stock and the Warrants in this offering may experience a decrease, which could be substantial and rapid, in the market price of the Series B Preferred Stock and/or the Warrants, including decreases unrelated to our operating performance or prospects.

CAUTIONARY STATEMENT
REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements, including discussion and analysis of our financial condition, anticipated capital expenditures required to complete projects, amounts of anticipated cash distributions to our shareholders in the future and other matters. These forward-looking statements are not historical facts but are the intent, belief or current expectations of our management based on its knowledge and understanding of our business and industry. Forward-looking statements are typically identified by the use of terms such as "may," "will," "should," "potential," "predicts," "anticipates," "expects," "intends," "plans," "believes," "seeks," "estimates," or the negative of such terms and variations of these words and similar expressions. These statements are not guarantees of future performance and are subject to risks, uncertainties and other factors, some of which are beyond our control, are difficult to predict and could cause actual results to differ materially from those expressed or forecasted in the forward-looking statements.

Forward-looking statements that were true at the time made may ultimately prove to be incorrect or false. You are cautioned to not place undue reliance on forward-looking statements, which reflect our management's view only as of the date of prospectus. We undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or changes to future operating results, except as required by applicable law. Factors that could cause actual results to differ materially from any forward-looking statements made in this prospectus include, among others:

- the imposition of federal taxes if we fail to qualify as a REIT in any taxable year or forego an opportunity to ensure REIT status;
- uncertainties related to the national economy, the real estate industry in general and in our specific markets;
- legislative or regulatory changes, including changes to laws governing REITs;
- adverse economic or real estate developments in Virginia, North Carolina, Florida, Georgia, Kentucky, South Carolina, Oklahoma, Tennessee and New Jersey;
- increases in interest rates and operating costs;
- inability to generate cash flow to service our outstanding indebtedness;
- inability to obtain necessary outside financing;
- litigation risks;
- defaults on, early terminations of or non-renewal of leases by tenants;
- inability to find tenants to fill existing vacant space;
- inability to obtain new tenants upon the expiration of existing leases;
- inability to generate sufficient cash flows due to market conditions, competition, uninsured losses, changes in tax or other applicable laws; and
- the need to fund tenant improvements or other capital expenditures out of operating cash flow.

These forward-looking statements should be read in light of these factors and additional factors listed under the heading "Risk Factors" on page 34.

ESTIMATED USE OF PROCEEDS

After deducting underwriting fees and commissions and estimated expenses of this offering, we expect net proceeds from this offering of approximately $.

We intend to contribute the net proceeds of this offering to our Operating Partnership in exchange for common units and our Operating Partnership will use the net proceeds received from us as described below:

- approximately $5.7 million for the Contemplated Acquisitions; and
- approximately $ for other future acquisitions and general working capital.

Further, we anticipate using a portion of the proceeds to pay future dividends. In addition, we anticipate using a portion of the proceeds of the offering to acquire the Contemplated Acquisitions as described below:

Property	Estimated Acquisition Fees and Costs (1)	Location	Year Built/ Renovated	Number of Tenants	Net Rentable Square Feet	Percentage Leased	Annualized Base Rent	Annualized Base Rent per Leased Square Foot (2)
Brook Run	$384,000	Richmond, VA	1990	19	147,738	92.1%	$1,620,235	$ 11.91
Northeast Plaza	98,000	Lumberton, NC	2000	9	54,511	95.4	474,690	9.13
Freeway Junction	418,000	Stockbridge, GA	1987	18	156,834	97.7	951,114	6.20
Total				**46**	**359,083**	**95.06%**	**3,046,039**	**9.08**

(1) Represents the estimated fees and costs associated with due diligence, accounting, legal and other professional services required to close the acquisition.

(2) Annualized base rent per leased square foot includes the impact of tenant concessions.

Brook Run

We have the option to acquire Brook Run by exercising our rights under a contribution and subscription agreement we expect to enter into with the property's owners for an aggregate purchase price of $19,196,850, which includes the assumption of approximately $16,704,800 in debt. The Contribution and Subscription agreement is expected to replace a purchase and sale agreement we previously entered into to acquire the property. Jon Wheeler is the managing member of the entity that currently owns Brook Run and owns 2.1% of such entity. We have not used the proceeds from our last offering to acquire Brook Run because we have not yet completed the loan assumption process.

Brook Run is a 147,738 square foot community shopping center built in 1990 and anchored by a Martin's grocery store. The property is located in Richmond, Virginia and is occupied by 19 primarily retail and restaurant tenants.

Martin's

Martin's leases 58,473 square feet of net rentable square feet, representing 39.58% of the net rentable square feet of Brook Run.

Annual rent under the Martin's lease is $497,021.

The Martin's lease expires on August 31, 2015 and has four remaining renewal options for five years.

Fitness Evolution

Fitness Evolution leases 32,000 square feet of net rentable square feet, representing 21.66% of the net rentable square feet of Brook Run.

Annual rent under the Fitness Evolution lease is $316,000.

The Fitness Evolution lease expires on January 31, 2023 and has four remaining renewal option for five years.

Northeast Plaza

We have the option to acquire Northeast Plaza by exercising our rights under a contribution and subscription agreement we expect to enter into with the property's owners for a total purchase price of $4,894,700, which includes the assumption of $3,182,900 in debt. The Contribution and Subscription agreement is expected to replace a purchase and sale agreement we previously entered into to acquire the property. Jon Wheeler is the managing member of the entity that currently owns Northeast Plaza and owns 4.5% of such entity. We did not use the proceeds from our last offering to acquire Northeast Plaza because we have not yet completed the loan assumption process.

Northeast Plaza is a 54,511 square foot neighborhood shopping center built in 2000 and anchored by a Food Lion. The property is located in Lumberton, North Carolina and is occupied by 9 primarily retail and restaurant tenants.

Food Lion

Food Lion leases 33,000 square feet of net rentable square feet, representing 60.54% of the net rentable square feet of Northeast Plaza.

Annual rent under the Food Lion lease is $292,050.

The Food Lion lease expires on December 12, 2020 and has four remaining renewal options for five years.

Dollar General

Dollar General leases 9,200 square feet of net rentable square feet, representing 16.88% of the net rentable square feet of Northeast Plaza.

Annual rent under the Dollar General lease is $50,000.

The Dollar General lease expires on January 31, 2015 and has one remaining renewal option for five years.

Freeway Junction

We have the right to acquire Freeway Junction through the assumption of a purchase contract by a wholly owned subsidiary of our Operating Partnership. Pursuant to the purchase contract we have the right to purchase Freeway Junction for a sales price of $10,450,000, which includes the assumption of $8,150,000 in debt.

Freeway Junction is a 156,834 square foot shopping center built in 1987 and anchored by a Goodwill store, a Northern Tool & Equipment store, an Ollie's Bargain Outlet, a Farmer Home Furniture store and a Grand Furniture store. The property is located in Stockbridge, Georgia and is occupied by 18 primarily retail and restaurant tenants.

Goodwill

Goodwill leases 29,788 square feet of net rentable square feet, representing 18.99% of the net rentable square feet of Freeway Junction.

Annual rent under the Goodwill lease is $223,410.

The Goodwill lease expires on July 31, 2016 and has one remaining renewal options for five years.

Northern Tool

Northern Tool leases 29,270 square feet of net rentable square feet, representing 18.66% of the net rentable square feet of Freeway Junction.

Annual rent under the Northern Tool lease is $256,113.

The Northern Tool lease expires on October 31, 2015 and has two remaining renewal options for five years.

Ollie's

Ollie's leases 25,575 square feet of net rentable square feet, representing 16.31% of the net rentable square feet of Freeway Junction.

Annual rent under the Ollie's lease is $84,653.

The Ollie's lease expires on August 31, 2021 and has three remaining renewal options for five years.

Farmer Home Furniture

Farmer Home Furniture leases 20,152 square feet of net rentable square feet, representing 12.85% of the net rentable square feet of Freeway Junction.

Annual rent under the Farmer Home Furniture lease is $84,034.

The Farmer Home Furniture lease expires on March 31, 2016 and has no remaining renewal options available.

Grand Furniture

Grand Furniture leases 15,730 square feet of net rentable square feet, representing 10.03% of the net rentable square feet of Freeway Junction.

Annual rent under the Grand Furniture lease is $45,000.

The Grand Furniture lease expires on February 28, 2019 and has one remaining renewal option for five years.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Unaudited Pro Forma Condensed Consolidated Financial Statements

The following unaudited pro forma condensed consolidated financial statements set forth on a pro forma basis for our company giving effect to this offering (the "Proposed Offering"), the 2014 Completed Acquisitions and the Contemplated Acquisitions as described elsewhere in this Prospectus and the pro forma impact of acquisitions completed during 2013. You should read the following unaudited pro forma condensed consolidated financial statements in conjunction with our financial statements and the related notes and with "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in our December 31, 2013 Annual Report on Form 10-K ("2013 Form 10-K") filed with the SEC on March 21, 2014 and in our June 30, 2014 Quarterly Report on Form 10-Q ("June 2014 Form 10-Q") filed with the SEC on August 14, 2014. Additionally, you should refer to financial information filed in relation to the property acquisitions as required under Rule 3-14 of Regulation S-X as promulgated by the SEC that are included within this Prospectus or have been incorporated by reference herein.

The following summarizes those properties that make up the 2014 Completed Acquisitions and the Contemplated Acquisitions which are described in more detail elsewhere in this Prospectus.

2014 Completed Acquisitions:

- Cypress Shopping Center (Boiling Springs, SC)—acquired July 1, 2014
- Harrodsburg Marketplace Shopping Center (Harrodsburg, KY)—acquired July 1, 2014
- Port Crossing Shopping Center (Harrisonburg, VA)—acquired July 3, 2014
- LaGrange Marketplace Shopping Center (LaGrange, GA)—acquired July 25, 2014
- DF 1-Courtland, LLC (Courtland, VA) (1)—acquired on August 15, 2014
- DF 1-Moyock, LLC (Moyock, NC) (1)—acquired on August 15, 2014
- Edenton Commons (Edenton, NC) (1)—acquired on August 15, 2014

Contemplated Acquisitions:

- Brook Run Shopping Center (Richmond, VA)
- Northeast Plaza Shopping Center (Lumberton, NC)
- Freeway Junction Shopping Center (Stockbridge, GA)

(1) Represents undeveloped real estate.

The following properties were acquired during 2013 ("2013 Acquisitions") and are described in more detail in our 2013 Form 10-K:

- Bixby Commons Shopping Center (Bixby, OK)—acquired June 11, 2013
- Tampa Festival (Tampa, FL)—acquired August 27, 2013
- Forrest Gallery (Tullahoma, TN)—acquired August 29, 2013
- Jenks Reasor's Shopping Center (Jenks, OK)—acquired September 24, 2013
- Starbucks/Verizon Retail Center (Virginia Beach, VA)—acquired October 21, 2013

- Jenks Plaza (Jenks, OK)—acquired December 17, 2013
- Winslow Plaza (Sicklerville, NJ)—acquired December 19, 2013
- Clover Plaza (Clover, SC)—acquired December 23, 2013
- St. George Plaza (St. George, SC)—acquired December 23, 2013
- South Square (Lancaster, SC)—acquired December 23, 2013
- Waterway Plaza (Little River, SC)—acquired December 23, 2013
- Westland Square (West Columbia, SC)—acquired December 23, 2013

The 2014 Completed Acquisitions, the Contemplated Acquisitions and the 2013 Acquisitions, as defined above, have been accounted for as an acquisition under the purchase accounting method and recognized at the estimated preliminary fair value of acquired assets and assumed liabilities on the date of such contribution or acquisition. The preliminary estimated fair value of these assets and liabilities has been allocated in accordance with Accounting Standards Codification ("ASC") section 805-10, *Business Combinations*. Our methodology of allocating the cost of acquisitions to assets acquired and liabilities assumed is based on estimated fair values, replacement cost and appraised values. We estimated the fair value of acquired tangible assets (consisting of land, building and improvements), identified intangible lease assets and liabilities (consisting of acquired above-market leases, acquired in-place lease value and acquired below-market leases) and assumed debt.

The values allocated to leasing commissions, legal and marketing fees associated with replacing existing leases, tenant relationships and in-place leases are amortized over the related lease term and reflected as depreciation and amortization. The value of above- and below-market in place leases are amortized over the related lease term and reflected as either an increase (for below-market leases) or a decrease (for above-market leases) to rental income. The fair value of the debt assumed is determined using current market interest rates for comparable debt financings. The estimated purchase price of the acquired properties for pro forma purposes is based on a relative equity evaluation analysis of the properties which incorporates cash flows and outstanding mortgage debt of the properties.

The following unaudited pro forma condensed consolidated financial information sets forth:

- the condensed consolidated financial information of our company as of and for the six months ended June 30, 2014 as provided in our financial statements included in our June 2014 Form 10-Q;
- the condensed consolidated financial information of our company as of and for the year ended December 31, 2013 as provided in our financial statements included in our 2013 Form 10-K;
- pro forma adjustments related to the Proposed Offering as if the transactions were completed as of June 30, 2014 for purposes of the unaudited pro forma condensed consolidated balance sheet and as of January 1, 2013 for purposes of the unaudited pro forma condensed consolidated statement of operations;
- the estimated preliminary fair value balance sheet for the 2014 Completed Acquisitions and the Contemplated Acquisitions as of June 30, 2014 and their estimated pro forma results of operations for the six months ended June 30, 2014 and the year ended December 31, 2013 (audited, if applicable); and
- the estimated pro forma results of operations for the year ended December 31, 2013 (audited, if applicable) of the 2013 Acquisitions.

The Bixby Commons, Jenks Reasor's and Starbucks/Verizon acquisitions have been reflected in the pro forma balance sheet and the estimated pro forma results of operations for the six months ended June 30, 2014. However, the incremental pro forma impact of these acquisitions on operations has been excluded from the pro forma statement of operations for the year ended December 31, 2013 due to the limited operating history for these properties as discussed below.

The Bixby Commons Shopping Center, a 75,000 square foot shopping center located in Bixby, Oklahoma, was purchased by the company on June 11, 2013 for approximately $10.6 million. In conjunction with this acquisition, we raised $4.16 million in net proceeds in a preferred stock offering. The property is leased to Associated Wholesale Grocers (AWG) who in turn subleases 100% of the property to a Reasor's Foods grocery store. The property was originally leased to AWG pursuant to a Build and Lease Agreement between AWG and the seller, a wholly-owned subsidiary of AWG. Construction of the property was completed during late 2012 and Reasor's Foods opened their store during November 2012. Accordingly, there is limited third party operating history for the property.

The company acquired Jenks Reasor's, an 81,000 square foot free-standing retail property located in Jenks, Oklahoma, on September 24, 2013 for a purchase price of approximately $11.4 million through a sales-leaseback transaction with AWG. The property was built in 2011. The property is subleased to a Reasor's Foods grocery store under a 20 year, triple-net operating lease expiring in 2033 and subject to annual rental payments of $912,000. Under the lease agreement, Reasor's is responsible for all expenses associated with the property, including taxes, insurance, roof and structure. Due the nature of the relationship between AWG and Reasor's, there is limited third party operating history available.

The company acquired Starbucks/Verizon, a 5,600 square foot free standing retail property located in Virginia Beach, Virginia, on October 21, 2013 for a purchase price of approximately $1.4 million. The property was built in 1985 and underwent significant renovations in 2012. The property is 100% leased by Starbucks Coffee and Verizon Wireless, who occupy 2,165 square feet and 3,435 square feet, respectively. Under the initial terms, Starbucks' lease will expire in 2023 with three five-year options to renew, while Verizon Wireless' lease will expire in 2022 and will also offer three five-year options to renew. Since the property was significantly renovated in late 2012 and the Starbucks and Verizon leases did not begin until October 2012, there is limited operating history available.

The unaudited pro forma condensed consolidated balance sheet is presented for illustrative purposes only and is not necessarily indicative of what the actual financial position would have been had the transactions referred to above occurred on June 30, 2014, nor does it purport to represent the future financial position of the company. The unaudited pro forma condensed consolidated statement of operations is presented for illustrative purposes only and is not necessarily indicative of what the actual results of operations would have been had the transactions referred to above occurred on January 1, 2013, nor does it purport to represent the future results of operations of the company.

The properties making up the 2014 Completed Acquisitions, the Contemplated Acquisitions and the 2013 Acquisitions (including Bixby Commons, Jenks Reasor's and Starbucks/Verizon) may be reassessed for property tax purposes. Therefore, the amount of property taxes we pay in the future may increase from what we have paid in the past. Given the uncertainty of the amounts involved, we have not included any property tax increase in our pro forma financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Unaudited Pro Forma Condensed Consolidated Balance Sheet
June 30, 2014

		Pro Forma Transactions				
	WHLR, Inc. & Subsidiaries (1)	Proposed Offering (2)	2014 Completed Acquisitions (3)	Contemplated Acquisitions (3)	Other Pro Forma Transactions (4)	WHLR, Inc. & Subsidiaries Consolidated Pro Forma
ASSETS:						
Investment properties, net at cost	$ 100,553,283	$ —	$ 26,242,200	$ 29,037,600	$ —	$ 155,833,083
Cash and cash equivalents	16,243,867	13,500,000	(7,010,800)	(5,697,000)	—	17,036,067
Rents and other tenant receivables, net	1,663,027	—	255,700	935,000	—	2,853,727
Deferred costs and other assets	21,692,120	—	3,828,000	4,616,800	—	30,136,920
Total Assets	$ 140,152,297	$13,500,000	$ 23,315,100	$ 28,892,400	$ —	$ 205,859,797
LIABILITIES:						
Mortgages and other indebtedness	$ 95,236,145	$ —	$ 22,269,500	$ 28,037,700	$ —	$ 145,543,345
(Above)/Below market lease intangible, net	2,610,379	—	(631,500)	(272,100)	—	1,706,779
Accounts payable, accrued expenses and other liabilities	3,361,048	—	440,300	1,126,800	—	4,928,148
Total Liabilities	101,207,572	—	22,078,300	28,892,400	—	152,178,272
EQUITY:						
Series A convertible preferred stock (no par value, 4,500 shares authorized, 1,809 shares issued and outstanding)	1,458,050	—	—	—	—	1,458,050
Series B convertible preferred stock (no par value, 3,000,000 shares authorized, 1,428,000 shares issued and outstanding)	18,738,515	13,500,000	—	—	—	32,238,515
Common stock ($0.01 par value, 75,000,000 shares authorized, 7,421,852 shares issued and outstanding)	74,218	—	—	—	—	74,218
Additional paid-in capital	28,092,906	—	—	—	(1,209,853)	26,883,053
Accumulated deficit	(16,274,152)	—	—	—	—	(16,274,152)
Total Shareholders' Equity	32,089,537	13,500,000	—	—	(1,209,853)	44,379,684
Noncontrolling interests	6,855,188	—	1,236,800	—	1,209,853	9,301,841
Total Equity	38,944,725	13,500,000	1,236,800	—	—	53,681,525
Total Liabilities and Equity	$ 140,152,297	$13,500,000	$ 23,315,100	$ 28,892,400	$ —	$ 205,859,797

See accompanying notes and management's assumptions to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Unaudited Pro Forma Condensed Consolidated Statement of Operations
Six Months Ended June 30, 2014

	WHLR, Inc. & Subsidiaries (5)	Pro Forma Transactions: 2014 Completed Acquisitions (6)	Pro Forma Transactions: Contemplated Acquisitions (7)	Pro Forma Transactions: Other Pro Forma Transactions (8)	WHLR, Inc. & Subsidiaries Consolidated Pro Forma	
REVENUE:						
Rental revenues	$ 5,948,100	$ 1,129,200	$ 1,461,200	$ (179,900)	$ 8,358,600	
Other revenues	1,349,746	185,300	320,100	—	1,864,146	
Total Revenue	7,297,846	1,314,500	1,790,300	(179,900)	10,222,746	
OPERATING EXPENSES:						
Property operations	1,832,219	353,200	535,200	—	2,720,619	
Depreciation and amortization	3,521,546	—	—	2,235,600	5,757,146	
Provision for credit losses	(28,032)	—	—	—	(28,032)	
Corporate general & administrative	2,217,867	33,300	83,300	—	2,334,467	
Total Operating Expenses	7,543,600	386,500	618,500	2,235,600	10,784,200	
Operating Income (Loss)	(245,754)	928,000	1,171,800	(2,415,500)	(561,454)	
Interest expense	(2,905,575)	—	—	(1,162,000)	(4,067,575)	
Net Income (Loss)	$ (3,151,329)	$ 928,000	$ 1,171,800	$ (3,577,500)	(4,629,029)	
Less: Net loss attributable to noncontrolling interests					(783,900)	(14)
Net Loss Attributable to Wheeler REIT					(3,845,129)	
Pro forma preferred stock dividends					(1,889,300)	(15)
Net Loss Attributable to Wheeler REIT Common Shareholders					$ (5,734,429)	
Loss per share:						
Basic and Diluted					$ (0.79)	
Weighted-average number of shares:						
Basic and Diluted					7,258,068	

See accompanying notes and management's assumptions to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Unaudited Pro Forma Condensed Consolidated Statement of Operations
Year Ended December 31, 2013

		Pro Forma Transactions				
	WHLR, Inc. & Subsidiaries (9)	2013 Acquisitions (10)	2014 Completed Acquisitions (11)	Contemplated Acquisitions (12)	Other Pro Forma Transactions (13)	WHLR, Inc. & Subsidiaries Consolidated Pro Forma
REVENUE:						
Rental revenues	$ 7,158,549	$3,930,000	$ 2,254,400	$ 3,060,200	$ (663,200)	$ 15,739,949
Other revenues	1,548,943	847,600	401,200	799,600	—	3,597,343
Total Revenue	8,707,492	4,777,600	2,655,600	3,859,800	(663,200)	19,337,292
OPERATING EXPENSES:						
Property operations	1,713,957	1,484,200	595,400	960,300	—	4,753,857
Depreciation and amortization	3,466,957	—	—	—	8,441,400	11,908,357
Provision for credit losses	106,828	—	—	—	—	106,828
Corporate general & administrative	5,297,166	163,600	102,800	126,300	—	5,689,866
Total Operating Expenses	10,584,908	1,647,800	698,200	1,086,600	8,441,400	22,458,908
Operating Income (Loss)	(1,877,416)	3,129,800	1,957,400	2,773,200	(9,104,600)	(3,121,616)
Interest expense	(2,497,810)	—	—	—	(4,911,900)	(7,409,710)
Net Income (Loss)	$ (4,375,226)	$3,129,800	$ 1,957,400	$ 2,773,200	$(14,016,500)	(10,531,326)
Less: Net loss attributable to noncontrolling interests						(1,664,200) (14)
Net Loss Attributable to Wheeler REIT						(8,867,126)
Pro forma preferred stock dividends						(3,778,600) (15)
Net Loss Attributable to Wheeler REIT Common Shareholders						$(12,645,726)
Loss per share:						
Basic and Diluted						$ (2.74)
Weighted-average number of shares:						
Basic and Diluted						4,620,600

See accompanying notes and management's assumptions to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Notes and Management's Assumptions to Unaudited Pro Forma
Condensed Consolidated Financial Statements

A. Basis of Presentation

The accompanying unaudited pro forma condensed consolidated financial statements are presented to reflect:

- the effect of closing the Proposed Offering, assuming we issue 600,000 shares of no par value Series B Preferred Stock estimated to be issued at $25 per share for the purposes of these pro formas;
- using approximately $12.7 million of cash on hand and proceeds from the Proposed Offering for the 2014 Completed Acquisitions and the Contemplated Acquisitions;
- the preliminary estimated fair value for the 2014 Completed Acquisitions and the Contemplated Acquisitions as of June 30, 2014 as accounted for under the purchase method of accounting in accordance with ASC Section 805, *Business Combinations*; and
- the pro forma impact on operations for the 2014 Completed Acquisitions, the Contemplated Acquisitions and the 2013 Acquisitions assuming they were acquired on January 1, 2013.

As previously disclosed, the pro forma financial statements for the year ended December 31, 2013 exclude the full year's impact on operations of acquiring Bixby Commons, Jenks Reasor's and Starbucks/Verizon.

The unaudited pro forma condensed consolidated balance sheet assumes the transactions described above occurred on June 30, 2014. The unaudited pro forma condensed consolidated statement of operations assumes the transactions described above occurred on January 1, 2013. The unaudited pro forma condensed consolidated balance sheet is presented for illustrative purposes only and is not necessarily indicative of what the actual financial position would have been had the transactions referred to above occurred on June 30, 2014, nor does it purport to represent the future financial position of the company. The unaudited pro forma condensed consolidated statement of operations is presented for illustrative purposes only and is not necessarily indicative of what the actual results of operations would have been had the transactions referred to above occurred on January 1, 2013, nor does it purport to represent the future results of operations of the company. In the opinion of management, all material adjustments have been made to reflect the effects of transactions referred to above.

B. Management's Assumptions to the Unaudited Pro Forma Condensed Consolidated Balance Sheet

(1) Represents the consolidated financial information of our company as of June 30, 2014 as provided in our financial statements included in our June 2014 Form 10-Q.

(2) Represents the estimated impact of issuing 600,000 shares of Series B Preferred Stock estimated to be issued at $25 per share for the purposes of these pro formas, net of estimated offering costs.

Estimated gross proceeds from the sale of 600,000 shares of Series B convertible preferred stock at $25 per share	$15,000,000
Less: Placement fee and other estimated offering costs incurred (a)	(1,500,000)
Estimated net cash proceeds from common stock and preferred stock offerings	$13,500,000

a. Represents the estimated underwriter placement fee, legal, and other offering costs incurred prior to and at closing of the offering.

(3) Represents the preliminary estimated fair values related to the anticipated acquisition of the 2014 Completed Acquisitions and the Contemplated Acquisitions. The amounts presented reflect the initial allocation of the preliminary estimated fair values and will be finalized subsequent to consummation of

the transactions. The following summarizes the estimated consideration to be paid and the preliminary estimated fair values of assets to be acquired and liabilities to be assumed in conjunction with the company acquiring the 2014 Completed Acquisitions and the Contemplated Acquisitions, along with a description of the methods used to estimate fair value. In estimating fair values, we considered many factors including, but not limited to, cash flows, market cap rates, location, occupancy rates, appraisals, other acquisitions and our knowledge of the current acquisition market for similar properties.

	2014 Completed Acquisitions	Contemplated Acquisitions
Preliminary estimated fair value of assets acquired and liabilities assumed:		
Investment property (a)	$ 26,242,200	$ 29,037,600
Tenant and other receivables and other assets (b)	255,700	935,000
Other lease intangibles (c)	3,828,000	4,616,800
Mortgage debt (d)	(22,269,500)	(28,037,700)
Accounts payable, accrued expenses and other liabilities (e)	(440,300)	(1,126,800)
Above/(below) market leases (f)	631,500	272,100
Estimated fair value of net assets acquired	$ 8,247,600	$ 5,697,000
Estimated purchase consideration:		
Estimated consideration paid with common units	$ 1,236,800	$ —
Estimated consideration paid with cash	7,010,800	5,697,000
Total estimated consideration (g)	$ 8,247,600	$ 5,697,000

a. Represents the preliminary estimated fair value of the net investment properties acquired which includes land, buildings, site improvements and tenant improvements. The fair value was estimated using following approaches:

   i. the market approach valuation methodology for land by considering similar transactions in the markets;

   ii. a combination of the cost approach and income approach valuation methodologies for buildings, including replacement cost evaluations, “go dark” analyses and residual calculations incorporating the land values;

   iii. the cost approach valuation methodology for site and tenant improvements, including replacement costs and prevailing quoted market rates; and

   iv. the income approach valuation methodology for in place leases which considered estimated market rental rates, expenses reimbursements and time required to replace leases.

b. Represents the preliminary estimated fair value of tenant and other receivables and other assets. It was determined that carrying value approximated fair value for all amounts in these categories.

c. Represents the preliminary estimated fair value of other lease intangibles which includes leasing commissions, legal and marketing fees associated with replacing existing leases, tenant relationships and in-place lease values. The income approach was used to estimate the fair value of these intangible assets which included estimated market rates and expenses.

d. Represents the preliminary estimated fair value of mortgages payable which was calculated by performing a discounted cash flow analysis on debt service using current prevailing market interest on comparable debt.

e. Represents the preliminary estimated fair value of accounts, accrued expenses and other liabilities. It was determined that carrying value approximated fair value for all amounts in these categories.

f. Represents the preliminary estimated fair value of above/(below) market leases. The income approach was used to estimate the fair value of above/(below) market leases using market rental rates for similar properties.

g. Represents the preliminary estimated purchase consideration to be paid for the 2014 Completed Acquisitions and the Contemplated Acquisitions.

(4) Represents the following pro forma transactions:

a. The reallocation to the noncontrolling interest based on approximately 2,706,151 ownership units in the Operating Partnership purchased by our company to facilitate closing the 2014 Completed Acquisitions and the Contemplated Acquisitions. This increase in our company's ownership of the Operating Partnership will result in a noncontrolling interest percentage of 14.71%, requiring a reallocation of $1,209,853.

C. Management's Assumptions to the Unaudited Pro Forma Condensed Consolidated Statement of Operations

(5) Represents the consolidated results of operations of our company for the six months ended June 30, 2014 as provided in our financial statements included in our June 2014 Form 10-Q.

(6) Represents the estimated pro forma impact of the 2014 Completed Acquisitions on operations for the six months ended June 30, 2014.

(7) Represents the estimated pro forma impact of the Contemplated Acquisitions on operations for the six months ended June 30, 2014.

(8) Represents the estimated impact on operations for the six months ended June 30, 2014 of additional depreciation and amortization and interest expense resulting from the 2014 Completed Acquisitions and the Contemplated Acquisitions.

(9) Represents the consolidated results of operations of our company for the year ended December 31, 2013 as provided in our financial statements included in our 2013 Form 10-K.

(10) Represents the estimated incremental pro forma impact on operations for year ended December 31, 2013 of the 2013 Acquisitions, excluding Bixby Commons, Jenks Reasor's and Starbucks/Verizon due to their limited third party operating history.

(11) Represents the estimated pro forma impact of the 2014 Completed Acquisitions on operations for the year ended December 31, 2013.

(12) Represents the estimated pro forma impact of the Contemplated Acquisitions on operations for the year ended December 31, 2013.

(13) Represents the estimated impact on operations for the year ended December 31, 2013 of additional depreciation and amortization and interest expense resulting from the 2013 Acquisitions, the 2014 Completed Acquisitions and the Contemplated Acquisitions.

(14) Represents the loss allocated to noncontrolling interests based on the new noncontrolling interest percentage of 14.71%.

(15) Represents the $90/share dividends on the 1,809 shares of Series A Preferred Stock, the dividends on the 828,000 shares of Series B Preferred Stock issued in April 2014 (including shares issued in May 2014 as part of the over-allotment) at 9% per annum, the dividends on the Series B Preferred Stock to be issued in the Proposed Offering at 9% per annum and the amortization of the estimated preferred stock discounts.

D. Other Financial Information

Unaudited pro forma Funds from Operations ("FFO"), which is a measurement not in accordance with accounting principles generally accepted in the United States ("GAAP") or non-GAAP measurement, for the six months ended June 30, 2014 and the year ended December 31, 2013 is as follows:

	Six Months Ended June 30, 2014	Year Ended December 31, 2013
Net loss	$ (4,629,029)	$ (10,531,326)
Depreciation and amortization of real estate assets	5,757,146	11,908,357
Total FFO	$ 1,128,117	$ 1,377,031

We use FFO as an alternative measure of our operating performance, specifically as it relates to results of operations and liquidity. We compute FFO in accordance with standards established by the Board of Governors of the National Association of Real Estate Investment Trust ("NAREIT") in its March 1995 White Paper (as amended in November 1999 and April 2002). As defined by NAREIT, FFO represents net income (computed in accordance with GAAP), excluding gains (or losses) from sales of property, plus real estate related depreciation and amortization (excluding amortization of loan origination costs) and after adjustments for unconsolidated partnerships and joint ventures. Most industry analysts and equity REITs, including us, consider FFO to be an appropriate supplemental measure of operating performance because, by excluding gains or losses on dispositions and excluding depreciation, FFO is a helpful tool that can assist in the comparison of the operating performance of a company's real estate between periods, or as compared to different companies. Management uses FFO as a supplemental measure to conduct and evaluate our business because there are certain limitations associated with using GAAP net income alone as the primary measure of our operating performance. Historical cost accounting for real estate assets in accordance with GAAP implicitly assumes that the value of real estate assets diminishes predictably over time, while historically real estate values have risen or fallen with market conditions. Accordingly, we believe FFO provides a valuable alternative measurement tool to GAAP when presenting our operating results.

CERTAIN RELATIONSHIPS AND TRANSACTIONS WITH RELATED PERSONS

Acquisition of Portfolio Properties

Each portfolio property that we acquired through the Operating Partnership upon the completion of our initial public offering and the formation transactions and certain other properties subsequently acquired were owned directly or indirectly by partnerships, limited liability companies or corporations (the "ownership entities") in which Jon S. Wheeler and his affiliates, certain of our other directors and executive officers and their affiliates and other third parties owned a direct or indirect interest (the "prior investors"). In connection with the acquisition of these ownership entities, the Operating Partnership entered into (1) contribution agreements with these prior investors, pursuant to which they contributed their interests in the ownership entities to the Operating Partnership and/or (2) purchase and sale agreements with the ownership entities. The prior investors, including Jon S. Wheeler and his affiliates, certain of our other directors and executive officers and their affiliates, received cash and/or common units in exchange for their interests in the ownership entities. The value of the consideration paid to each of the prior investors in the ownership entities, in each case, was based upon the terms of the applicable contribution agreements and/or purchase and sale agreements.

Portfolio Property or Contemplated Acquisition	Type [1]	Transaction Cost [2]	Related Person	Dollar Value of Related Person's Interest [3]
Amscot Building	A	$ 1,133,589	Jon S. Wheeler Chairman & CEO	$ 470,312
Lumber River Village	A	$ 4,444,904	Jon S. Wheeler—Chairman & CEO	$ 101,974
			Ann L. McKinney—Director	$ 22,187
			Robin Hanisch—Secretary	$ 5,549
Monarch Bank Building	A	$ 2,775,352	Jon S. Wheeler—Chairman & CEO	$ 93,841
Perimeter Square	A	$ 7,250,592	Jon S. Wheeler—Chairman & CEO	$ 293,354
Riversedge North	A	$ 3,461,508	Jon S. Wheeler—Chairman & CEO	$ 145,776
Shoppes at Eagle Harbor	A	$ 5,777,350	Jon S. Wheeler—Chairman & CEO	$ 80,189
			Ann L. McKinney—Director	$ 13,364
Shoppes at TJ Maxx	A	$ 9,498,215	Jon S. Wheeler—Chairman & CEO	$ 121,998
Walnut Hill Plaza	A	$ 6,202,925	Jon S. Wheeler—Chairman & CEO	$ 430,440
			Ann L. McKinney—Director	$ 10,761
			Robin Hanisch—Secretary	$ 10,761
Surrey Plaza	A	$ 2,239,649	Jon S. Wheeler—Chairman & CEO	$ 22,650
			Ann L. McKinney—Director	$ 9,363
			Robin Hanisch—Secretary	$ 460
Starbucks/Verizon	A	$ 1,392,400	Jon S. Wheeler—Chairman & CEO	$ 104,950
Jenks Plaza	A	$ 1,742,000	Jon S. Wheeler—Chairman & CEO	$ 10,197
South Carolina Food Lions (Clover Plaza, St. George Plaza, South Square, Waterway Plaza, Westland Square)	A	$ 15,846,536	Jon S. Wheeler—Chairman & CEO	$ 371,435
			Ann L. McKinney—Director	$ 7,846
			Robin Hanisch—Secretary	$ 1,962
Port Crossing	A	$ 9,311,422	Jon S. Wheeler—Chairman & CEO	$ 181,526
			Ann L. McKinney—Director	$ 44,742
Development Fund Properties (DF I-Courtland, LLC, DF I-Moyock, LLC Edenton Commons)	A		Jon S. Wheeler—Chairman & CEO	$ 43,619
			Ann L. McKinney—Director	$ 7,269
LaGrange Marketplace	A	$ 3,695,000	Jon S. Wheeler—Chairman & CEO	$ 128,032
Brook Run	B	$ 19,196,866	Jon S. Wheeler—Chairman & CEO	$ 34,241
			Ann L. McKinney—Director	$ 23,065
Northeast Plaza	B	$ 4,894,671	Jon S. Wheeler—Chairman & CEO	$ 88,015
			Ann L. McKinney—Director	$ 1,164

(1) A = Completed acquisition; B = Contemplated acquisition

(2) Includes the value of debt we assumed or entered into in certain of these transactions.

(3) Jon S. Wheeler personally guaranteed some of the debt we assumed in these transactions. Upon our assumption of the debt at the closing of these transactions, Mr. Wheeler, in certain cases, was released from his guarantee and the Operating Partnership guaranteed the debt. The dollar value reflected does not reflect the release of Mr. Wheeler's personal guarantee.

The Company did not obtain independent third-party appraisals before purchasing such properties.

For a discussion of the fees we pay to our Services Companies see page 18 of the prospectus.

MANAGEMENT

Information relating to our directors and executive officers has been incorporated by reference from our 2013 Form 10-K, and our Current Report on Form 8-K, filed on June 17, 2014. As described in such Current Report, Warren D. Harris was appointed to fill the vacancy created by the resignation of Sanjay Madhu as a director of our company. Mr. Harris' biographical summary is as follows:

Warren D. Harris, age 57, is a member of the Company's Board of Directors and a member of the Audit Committee of the Board of Directors. Mr. Harris is currently the Director of Economic Development for the City of Virginia Beach, Virginia. He was appointed to such position by the Virginia Beach City Manager in July 2007. His job responsibilities include expanding and diversifying the tax base, increasing per capita income and creating and retaining employment opportunities for the city. Mr. Harris received his undergraduate degree in Political Science from Hampton University and a master's degree in Public Administration from Old Dominion University. Mr. Harris serves on the Board of Trustees at Norfolk Academy, Old Dominion University Center for Real Estate and Economic Development, Old Dominion University Real Estate Foundation, South Hampton Roads YMCA Metropolitan Board, the Norfolk Guardsmen, Inc., and the Virginia Economic Developers Association. The Company's Board of Directors determined that he was independent based upon the listing standards established by the Nasdaq Stock Market.

BENEFCIAL OWNERSHIP

The following table sets forth certain information regarding the beneficial ownership of shares of our common stock and shares of common stock into which common units, warrants and Series B Preferred Stock are exchangeable for (1) each person who is the beneficial owner of 5% or more of our outstanding common stock, (2) each of our directors and named executive officers, and (3) all of our directors and executive officers as a group. Each person named in the table has sole voting and investment power with respect to all of the shares of our common stock shown as beneficially owned by such person, except as otherwise set forth in the notes to the table. The extent to which a person will hold shares of common stock as opposed to units is set forth in the footnotes below.

The SEC has defined "beneficial ownership" of a security to mean the possession, directly or indirectly, of voting power and/or investment power over such security. A stockholder is also deemed to be, as of any date, the beneficial owner of all securities that such stockholder has the right to acquire within 60 days after that date through (1) the exercise of any option, warrant or right, (2) the conversion of a security, (3) the power to revoke a trust, discretionary account or similar arrangement or (4) the automatic termination of a trust, discretionary account or similar arrangement. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, common shares subject to options or other rights (as set forth above) held by that person that are exercisable as of this filing or will become exercisable within 60 days thereafter, are deemed outstanding, while such shares are not deemed outstanding for purposes of computing percentage ownership of any other person. As of August 18, 2014, we had 48 stockholders of record. This number excludes our common shares owned by shareholders holding under nominee security position listings.

Unless otherwise indicated, the address of each named person is c/o Wheeler Real Estate Investment Trust, Inc., Riversedge North, 2529 Virginia Beach Blvd., Suite 200, Virginia Beach, Virginia 23452.

	Number of Shares and Common Units Beneficially Owned	Percentage of All Shares[1]	Percentage of All Shares and Common Units[2]
Jon S. Wheeler	1,075,285[3]	14.48%	11.33%
Steven M. Belote	7,669	*	*
Robin Hanisch	5,454[4]	*	*
Carl B. McGowan, Jr.	4,169	*	*
Ann L. McKinney	19,075[5]	*	*
Christopher J. Ettel	2,369	*	*
David Kelly	6,369	*	*
William W. King	2,869	*	*
Sanjay Madhu[6]	7,669	*	*
Jeffrey Zwerdling[7]	280,369	3.77%	2.95%
Warren D. Harris[8]	0	*	*
All directors, dirctor nominees and executive officers as a group (11 persons) [9]	1,411,297	19.00%	14.86%

* Less than 1.0%

(1) Based upon 7,428,208 shares of common stock outstanding on August 18, 2014. In addition, amounts for individuals assume that all common units, warrants or Series B Convertible Preferred Stock held by the person are exchanged for shares of our common stock, and amounts for all directors, director nominees and executive officers as a group assume all common units, warrants or Series B Convertible Preferred Stock held by them are exchanged for shares of our common stock in each case, regardless of when such common units are currently exchangeable, when the warrants are exercisable or when the Series B Convertible Preferred Stock is convertible. The total number of shares of our common stock outstanding used in calculating this percentage assumes that none of the common units held by other persons are exchanged for shares of our common stock, none of the warrants held by other persons are exercised for shares of our common stock and none of the Series B Preferred Stock held by other persons is converted into shares of our common stock.

(2) Based upon 7,428,208 shares of our common stock and 2,067,014 common units, which units may be redeemed for cash or, at our option, exchanged for shares of our common stock outstanding on August 18, 2014, subject to certain lock-up agreements.
(3) Includes 680,588 shares of common stock and 394,697 common units.
(4) Includes 2,269 shares of common stock and 3,185 common units.
(5) Includes 4,455 shares of common stock and 14,620 common units.
(6) Mr. Madhu resigned from his position as a Director on June 12, 2014.
(7) Includes (i) 243,169 shares of common stock, (ii) an aggregate of 30,000 shares of common stock underlying 6,000 shares of Series B Convertible Preferred Stock that is currently convertible, and (iii) an aggregate of 7,200 shares of common stock underlying warrants that are currently exercisable.
(8) Mr. Harris was appointed as a Director on June 13, 2014.
(9) Includes 961,595 shares of common stock, 412,502 common units, 30,000 shares of common stock underlying 6,000 shares of Series B Convertible Stock and 7,200 shares of common stock underlying warrants.

DISTRIBUTION POLICY

We cannot assure you that our estimated distributions will be made or sustained. Any distributions that we pay in the future will depend upon our actual results of operations, economic conditions and other factors that could differ materially from our current expectations. Our actual results of operations will be affected by a number of factors; including the revenue we receive from our properties, our operating expenses, interest expense, the ability of our tenants to meet their obligations, restrictions under applicable law and unanticipated expenditures. For more information regarding risk factors that could materially adversely affect our actual results of operations, see "Risk Factors."

As illustrated in the table below, the distributions we intend to pay during the twelve months following completion of the offering exceed projected cash flow available for distributions during that period. Eliminating this deficit will be conditional upon us successfully investing the proceeds from this offering. If we are unable to generate sufficient earnings to accommodate the distribution, a portion of our distributions may represent a return of capital for U.S. federal income tax purposes. For a more complete discussion of the tax treatment of distributions to holders of our common stock, see "Material U.S. Federal Income Tax Considerations."

The following table describes our pro forma consolidated net income (loss) available to our equity owners for the twelve months ended June 30, 2014, and the adjustments that we have made thereto to estimate our initial cash available for distribution for the twelve months ending June 30, 2015. The table includes the estimated pro forma impact of the Jenks Reasor's Shopping Center and the Starbucks/Verizon retail center that are excluded from the unaudited pro forma condensed consolidated financial information provided elsewhere in this prospectus.

Pro forma net loss for the twelve months ended December 31, 2013 (1)	$ (10,531,326)
Less: Pro forma net loss for the six months ended June 30, 2013 (2)	4,193,346
Add: Pro forma net loss for the six months ended June 30, 2014 (1)	(4,629,029)
Pro forma net loss for the twelve months ended June 30, 2014 (1)	(10,967,009)
Add: Pro forma depreciation and amortization, including amortization of fair value adjustments	12,234,918
Add: Pro forma impact of Jenks Reasor's and Starbucks/Verizon (3)	145,100
Add: Net increases in contractual rent income (4)	229,528
Less: Net decreases in contractual rent income due to lease expirations, assuming historical average retention (4)	(78,580)
Add: Pro forma impact of straight-line rent	153,025
Add: Pro forma impact of non-cash share-based compensation	145,000
Add: Pro forma non-cash provision for credit losses	40,893
Estimated cash provided by operating activities for the twelve months ending June 30, 2015	1,902,875
Estimated cash used in investing activities for the twelve months ending June 30, 2015 (5)	(282,033)
Estimated cash used in financing activities for the twelve months ending June 30, 2015 (6)	(4,964,258)
Estimated cash available for distribution for the twelve months ending June 30, 2015	(3,343,416)
Estimated annual distributions to stockholders and operating partnership unit holders (7)	3,985,324
Estimated difference between cash available for distribution and the estimated distributions for twelve months ending June 30, 2015 (8)	$ (7,328,740)
Estimated annual distributions per share (9)	$ 0.42
Payout ratio based on estimated cash available for distribution (10)	(119)%

(1) Represents the pro forma consolidated results of operations for the respective periods as presented in the unaudited pro forma condensed consolidated financial statements included elsewhere in this prospectus. The pro forma net loss for the twelve month ending June 30, 2014 includes approximately $3.07 million of expenses related to 2013 Completed Acquisitions

(2) Represents the actual results of operations for the six months ended June 30, 2013 plus the impact of pro forma adjustments related to the property 2013 Acquisitions, the 2014 Completed Acquisitions and the Contemplated Acquisitions.

(3) The following table summarizes the estimated impact on cash available for distributions of the Jenks Reasor's Shopping Center and the Starbucks/Verizon retail center. These acquisitions were excluded from the pro forma operating results for the year ended December 31, 2013 due to the limited third party operating history available for the properties. These estimates are based on existing leases that are either in place or part of the purchase contracts, contractual management fees that cannot be passed through to the tenants and loan agreements that have been executed or will be executed upon closing of the acquisitions.

	Jenks Reasor's	Starbucks/Verizon	Total
Rental income	$202,900	$ 66,600	$269,500
Less:			
Management fee expenses	4,000	3,300	7,300
Ground rent	—	23,200	23,200
Interest expense	80,900	13,000	93,900
Estimated net cash provided by operations	$118,000	$ 27,100	$145,100

(4) Represents increased rent revenue generated from contractual scheduled rent adjustments and renewals for existing tenants, net of approximately $27,400 in leasing commissions to be paid by applying our standard 3% renewal commission rate to the estimated rent retained on renewals of $914,604 (per below). There were no additional vacancies during the past twelve months that would create a material decrease in pro forma rental income and the pro forma does not include the impact of any vacancies filled during the next twelve months. For leases expiring after June 30, 2014, assumes renewal probability based on historical average retention rate, as calculated in the following schedule:

	Year Ended December 31,			Total/ Weighted Average
	2011	2012	2013	2011-2013
Annualized base rent expiring in year	$ 460,535	$561,159	$761,003	$1,782,697
Annualized base rent renewed	430,919	449,730	761,003	1,641,651
Retention rate	93.6%	80.1%	100.0%	92.1%
Pro forma combined base rent expiring in next 12 months				993,185
Weighted average retention rate				92.1%
Estimated rent retained				914,604
Estimated rent decline				(78,581)

(5) Represents projected capital improvements and tenant improvements on existing properties based on the three year historical average as detailed in the table below, excluding acquisition, development and other expenditures incurred on newly acquired or developed properties which are considered non-recurring.

	Year Ended December 31,			Weighted Average
	2011	2012	2013	2011-2013
Net recurring capital and tenant improvement expenses	$93,451	$45,558	$707,089	$282,033

(6) Represents scheduled principal payments on mortgage loans and preferred stock dividends for the twelve months ending June 30, 2015, excluding the $4.9 million of debt maturities during that period which we believe we will be able to refinance under terms similar to or better than those currently in place. The preferred stock dividends are based on the 1,809 shares of Series A Preferred Stock outstanding at June 30, 2014 which accrue dividends at a rate of 9% per annum, the 828,000 shares of Series B Preferred Stock

issued in April 2014 (including shares issued in May 2014 as part of the over-allotment) which accrue dividends at 9% per annum and the 600,000 shares of no par value Series B Preferred Stock issued in this offering which accrue dividends at 9% per annum.

(7) Calculated using a $0.42 per share dividends rate based on the 7.42 million and 2.07 million common shares and common units currently outstanding, respectively.

(8) Represents the amount of offering proceeds that may be required to fund distributions at $0.42 per share prior to factoring in additional cash flow generated from property acquisitions made subsequent to the offering. See “Risk Factors.”

(9) Represents the targeted initial annual dividend rate per share based on current monthly dividends being paid of $0.035 per share, or $0.42 per annum.

(10) Calculated as estimated initial annual distribution per share divided by estimated cash available for distribution per share for the twelve months ending June 30, 2015.

Our pro forma cash available for distribution for the twelve months ending June 30, 2015 results in a shortfall when compared to our targeted initial annual dividend rate of $0.42 per common share. Excluding the impact of the $3.07 million of acquisition related expenses included in the pro forma net loss for the twelve months ended June 30, 2014, the distribution deficit would be $4.45 million. Assuming a pro rata amount of the estimated cash available for distribution for the twelve months ending June 30, 2015 is available for distribution for the first month following the completion of this offering, we estimate our operating cash flow will be insufficient to cover our expected initial monthly distribution to stockholders for that period. However, the above table does not include any increases or decreases in revenues or costs associated with: (1) any rental and related revenue increases or decreases from changes in occupancy for the combined properties from leases that may be executed subsequent to June 30, 2014; (2) cash flow generated from future acquisitions completed subsequent to the completion of the offering from our current acquisition pipeline and other acquisition opportunities; (3) fluctuations in operating, capital and tenant improvement expenses; and (4) any offsetting costs associated with any increases in revenue. As a result, our actual payout ratio could be higher or lower than the payout ratio shown in the table above. In any event, unless our operating cash flow increases, we will be required to fund future distributions from proceeds of the Offering or to reduce such distributions.

DESCRIPTION OF CAPITAL STOCK AND SECURITIES OFFERED

Although the following summary describes the material terms of our stock, it is not a complete description of the Maryland General Corporation Law ("MGCL") or our charter and bylaws, copies of which are filed as exhibits to the registration statement of which this prospectus is a part and are available from us upon request.

General

Our charter, as amended, provides that we may issue up to 75,000,000 shares of common stock, $0.01 par value per share, and 5,000,000 shares of preferred stock, without par value per share. Our charter authorizes our board of directors, with the approval of a majority of the entire board of directors and without any action by our stockholders, to amend our charter to increase or decrease the aggregate number of authorized shares of stock or the number of authorized shares of any class or series of our stock. As of August 18, 2014, 7,428,208 shares of our common stock, 1,809 shares of our Series A Preferred Stock and 828,000 shares of our Series B Preferred Stock were issued and outstanding. Under Maryland law, stockholders generally are not personally liable for our debts or obligations solely as a result of their status as stockholders.

Series B Preferred Stock

General

Our board of directors designated a series of preferred stock with the rights set forth herein consisting of 3,000,000 designated as Series B Preferred Stock by adopting Articles of Amendment and Restatement. In connection with this offering, we are offering 600,000 shares of Series B Preferred Stock. Subsequent to the completion of this offering, we will have available for issuance 3,570,191 authorized but unissued shares of preferred stock. Our board of directors may, without the approval of holders of the Series B Preferred Stock, or any other capital stock, designate additional series of authorized preferred stock ranking senior to or on parity with the Series B Preferred Stock or designate additional shares of the Series B Preferred Stock and authorize the issuance of such shares.

The shares of the Series B Preferred Stock are listed on the Nasdaq Stock Market under the symbol "WHLRP." On August 18, 2014, the closing price for our Series B Preferred Stock reported on the Nasdaq Stock Market was $24.95 per share.

Maturity

The Series B Preferred Stock has no stated maturity and will not be subject to any sinking fund or mandatory redemption. Shares of the Series B Preferred Stock will remain outstanding indefinitely unless they become convertible and are converted as described below under "*Voluntary Conversion*" and "*Mandatory Conversion*."

Ranking

The Series B Preferred Stock will rank, with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up:

(1) senior to all classes or series of our common stock and to all other equity securities issued by us other than equity securities referred to in clauses (2) and (3) below;

(2) on a parity with our Series A Preferred Stock and all equity securities issued by us with terms specifically providing that those equity securities rank on a parity with the Series B Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up;

(3) junior to all equity securities issued by us with terms specifically providing that those equity securities rank senior to the Series B Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up; and

(4) effectively junior to all of our existing and future indebtedness (including indebtedness convertible to our common stock or preferred stock) and to the indebtedness of our existing subsidiary and any future subsidiaries.

Dividends

Subject to the preferential rights of holders of any class or series of senior stock, holders of Series B Preferred Stock shall be entitled to receive, when and as authorized by the board of directors and declared by our company, out of funds legally available for the payment of dividends, cash dividends at the rate of 9.0% per annum. The dividends on each share of Series B Preferred Stock shall accrue and shall be cumulative from the first date on which such share of Series B Preferred Stock is issued and shall be payable quarterly in arrears on or before the fifteenth day of each January, April, July and October of each year or, if not a Business Day, the next succeeding Business Day (each, a "Dividend Payment Date"). Any dividend payable on the Series B Preferred Stock for any partial Dividend Period shall be computed ratably on the basis of a 360-day year consisting of twelve 30-day months. Dividends shall be payable in arrears to holders of record as they appear in our stock records at the close of business on the applicable record date or dates, which shall be each day of the calendar quarter immediately preceding the calendar quarter in which the applicable Dividend Payment Date falls or such other date or dates designated by the board of directors for the determination of the holders of Series B Preferred Stock entitled to receive dividends that is or are not more than 90 days prior to such Dividend Payment Date or the date on which such dividends are set aside for payment (each, a "Dividend Record Date"). The term "Dividend Period" shall mean the first day of each calendar quarter through and including the last day of such calendar quarter.

Holders of Series B Preferred Stock shall not be entitled to any dividends in excess of cumulative dividends, as herein provided, on the Series B Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect to any dividend payment or payments on the Series B Preferred Stock that may be in arrears. When dividends are not paid in full upon the Series B Preferred Stock or any other class or series of parity stock, or a sum sufficient for such payment is not set apart, all dividends declared upon the Series B Preferred Stock and any shares of parity stock shall be declared ratably in proportion to the respective amounts of dividends accumulated, accrued and unpaid on the Series B Preferred Stock and accumulated, accrued and unpaid on such parity stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods if such parity stock does not have a cumulative dividend).

Except as set forth in the preceding paragraph, unless full cumulative dividends equal to the full amount of all accumulated, accrued and unpaid dividends on the Series B Preferred Stock have been, or are concurrently therewith, declared and paid or declared and set apart for payment for all past Dividend Periods, no dividends (other than dividends or distributions paid in shares of junior stock or options, warrants or rights to subscribe for or purchase shares of junior stock) shall be declared and paid or declared and set apart for payment and no other distribution of cash or other property may be declared and made, directly or indirectly, by the company with respect to any shares of junior stock or parity stock, nor shall any shares of junior stock or parity stock be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of common stock made for purposes of an employee incentive or benefit plan) for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any shares of any such stock), directly or indirectly, by our company (except by conversion into or exchange for shares of junior stock or options, warrants or rights to subscribe for or purchase shares of junior stock), nor shall any other cash or other property be paid or distributed to or for the benefit of holders of shares of junior stock or parity stock.

Notwithstanding the foregoing provisions we are not prohibited from (i) declaring or paying or setting apart for payment any dividend or other distribution on any shares of junior stock or parity stock or (ii) redeeming, purchasing or otherwise acquiring any junior stock or parity stock, in each case, if such declaration, payment, setting apart for payment, redemption, purchase or other acquisition is necessary in order to maintain our continued qualification as a REIT under Section 856 of the Code.

In determining whether a distribution (other than upon voluntary or involuntary liquidation) by dividend, redemption or other acquisition of our shares of capital stock or otherwise is permitted under Maryland law, no effect shall be given to amounts that would be needed, if we were to be dissolved at the time of the distribution, to satisfy the preferential rights upon distribution of holders of shares of capital stock whose preferential rights upon distribution are superior to those receiving the distribution.

Voluntary Conversion

The Series B Preferred Stock is convertible, in whole or in part, at any time, at the option of the holders thereof, into authorized but previously unissued common stock at a conversion price of $5.00 per share of common stock, subject to adjustment as described below.

Conversion of Series B Preferred Stock or a specified portion thereof, may be effected by delivering certificates evidencing such shares, together with written notice of conversion and a proper assignment of such certificate to us or in blank, to the office or agency to be maintained by us for that purpose. Currently, such office is Computershare, 250 Royall Street, Canton, Massachusetts 02021, the transfer agent, registrar, dividend disbursing agent and conversion agent for the Series B Preferred Stock.

Each conversion will be deemed to have been effected on the date immediately following the next Dividend Record Date after which the certificates for Series B Preferred Stock shall have been surrendered and notice shall have been received by us as described above (and if applicable, payment of any amount equal to the dividend payable on such shares shall have been received by us as described below) and the conversion shall be at the conversion price in effect at such time and on such date.

Fractional shares of common stock will not be issued upon conversion but, in lieu thereof, we will pay a cash adjustment based on the closing price of the common stock on the trading day immediately preceding the conversion date.

Mandatory Conversion

To the extent the 20-trading day volume-weighted average closing price of our common stock exceeds $7.25 per share, each share of Series B Preferred Stock will automatically, as of the date that immediately follows the next Dividend Record Date, convert into shares of common stock at a conversion price equal to $5.00 per share, subject to adjustment as described below.

Conversion Price Adjustments

The conversion price is subject to adjustment upon certain events, including (i) the payment of dividends (and other distributions) payable in common stock on any class or series of capital stock, (ii) the issuance to all holders of common stock of certain rights or warrants entitling them to subscribe for or purchase common stock at a price per share less than the fair market value (as defined in the terms of the Series B Preferred Stock) per share of common stock, (iii) subdivisions, combinations and reclassifications of common stock and (iv) distributions to all holders of common stock of any shares of stock (excluding common stock) or evidence of our indebtedness or assets (including securities, but excluding those dividends, rights, warrants and distributions referred to in clause (i), (ii) or (iii) above and dividends and distributions paid in cash). In addition to the foregoing adjustments, we will be permitted to make such reduction in the conversion price as our board of directors considers to be advisable in order that any event treated for federal income tax purposes as a dividend of shares or share rights will not be taxable to the holders of our common stock or, if that is not possible, to diminish any income taxes that are otherwise payable because of such event.

In case we shall be a party to any transaction (including, without limitation, a merger, consolidation, statutory share exchange, tender offer for all or substantially all of our common stock or sale of all or substantially all of our assets), in each case as a result of which shares of common stock will be converted into the right to receive stock, securities or other property (including cash or any combination thereof), each share of

Series B Preferred Stock, if convertible after the consummation of the transaction, will thereafter be convertible into the kind and amount of capital stock, securities and other property receivable (including cash or any combination thereof) upon the consummation of such transaction by a holder of that number of shares of common stock or fraction thereof into which one share of Series B Preferred Stock was convertible immediately prior to such transaction (assuming such holder of common stock failed to exercise any rights of election and received per share of common stock the kind and amount of capital stock, securities or other property received per share of common stock by a plurality of non-electing shares of common stock). We may not become a party to any such transaction unless the terms thereof are consistent with the foregoing.

No adjustment of the conversion price is required to be made unless such adjustment would require a cumulative increase or decrease of at least 1% or more of the conversion price. Any adjustments not so required to be made will be carried forward and taken into account in subsequent adjustments; provided, however, that any such adjustments will be made not later than such time as may be required to preserve the tax-free nature of a distribution to the holders of our common stock. The conversion price will not be adjusted:

- upon the issuance of any common stock or rights to acquire common stock pursuant to any present or future employee, director or consultant incentive or benefit plan or program for us or any of our subsidiaries;
- upon the issuance of any common stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on our securities and the investment of additional optional amounts in common stock under any plan;
- for a change in the par value of our common stock; or
- for accumulated and unpaid dividends.

Liquidation Preference

Upon any voluntary or involuntary liquidation, dissolution or winding up of the company, before any payment or distribution by the company shall be made to or set apart for the holders of any shares of junior stock, the holders of shares of the Series B Preferred Stock shall be entitled to be paid out of the assets of the company that are legally available for distribution to the stockholders, a liquidation preference of the Stated Value per share, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not declared) to and including the date of payment. Until the holders of the Series B Preferred Stock have been paid the liquidation preference in full, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not earned or declared) to the date of final distribution to such holders, no payment will be made to any holder of junior stock upon the liquidation, dissolution or winding up of the company. If upon the voluntary or involuntary liquidation, dissolution or winding up of the company, the available assets of the company, or proceeds thereof, distributable among the holders of the Series B Preferred Stock shall be insufficient to pay in full the above described liquidation preference and the liquidating payments on any shares of any class or series of parity stock, then such assets, or the proceeds thereof, shall be distributed among the holders of the Series B Preferred Stock and any such parity stock ratably in the same proportion as the respective amounts that would be payable on such Series B Preferred Stock and any such parity stock if all amounts payable thereon were paid in full. After payment of the full amount of the liquidation preference to which they are entitled, the holders of the Series B Preferred Stock shall have no right or claim to any of the remaining assets of the company.

Upon any liquidation, dissolution or winding up of the company, after payment shall have been made in full to the holders of the Series B Preferred Stock and any parity stock, the holders of any classes or series of junior stock shall be entitled to receive any and all assets of the company remaining to be paid or distributed and the holders of the Series B Preferred Stock and any parity stock shall not be entitled to share therein.

Neither the consolidation or merger of the company with or into any other corporation, trust or entity or of any other corporation, trust or entity with or into the company, nor the sale or transfer of any or all of the assets or business of the company, nor a statutory share exchange shall be deemed to constitute a voluntary or involuntary liquidation, dissolution or winding up of the company.

In determining whether a distribution (other than upon voluntary or involuntary liquidation), by dividend, redemption or other acquisition of shares of stock of the company or otherwise, is permitted under the Maryland Corporation Law, amounts that would be needed, if the company were to be dissolved at the time of distribution, to satisfy the preferential rights upon dissolution of holders of shares of the Series B Preferred Stock shall not be added to the company's total liabilities.

Voting Rights

Holders of the Series B Preferred Stock will not have voting rights, except as required by law.

No Preemptive Rights

No holder of Series B Preferred Stock shall be entitled to any preemptive rights to subscribe for or acquire any unissued preferred stock (whether now or hereafter authorized) or our securities convertible into or carrying a right to subscribe to or acquire our capital stock.

Redemption

The Series B Preferred Stock has no redemption rights.

Warrants

In connection with this offering, we are offering warrants to purchase up to 720,000 shares of common stock. The Warrants are listed on the Nasdaq Stock Market under the symbol "WHLRW." On August 18, 2014, the closing price of our warrants reported on the Nasdaq Stock Market was $.76 per warrant. As of August 18, 2014, 993,600 warrants were issued and outstanding.

Exercisability

Holders may exercise the Warrants at any time beginning upon issuance up to 11:59 p.m., New York time, on April 29, 2019. The Warrants are exercisable, at the option of each holder, in whole, but not in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of shares of our common stock purchased upon such exercise. Each Warrant is exercisable for one share of our common stock (subject to adjustment, as discussed below). The holder of Warrants does not have the right to exercise any portion of the Warrant if the holder would beneficially own in excess of 9.8% in value of the shares of our capital stock outstanding or in excess of 9.8% (in value or number of shares, whichever is more restrictive) of the shares of our common stock outstanding immediately after giving effect to such exercise.

Exercise Price

The exercise price of the common stock purchasable upon exercise of the Warrants is $5.50 per share. The exercise price and the number of shares of common stock issuable upon exercise of the Warrants is subject to appropriate adjustment in relation to certain events, such as recapitalizations, stock dividends, stock splits, stock combinations, reclassifications or similar events affecting our common stock, and also upon any distribution of assets, including cash, stock or other property to our stockholders.

Rights as Stockholder

Except as otherwise provided in the Warrants or by virtue of such holder's ownership of shares of our common stock, the holders of the Warrants will not have the rights or privileges of holders of our common stock, including any voting rights, until they exercise their Warrants.

Fractional Shares

No fractional shares of common stock will be issued upon the exercise of the Warrants. Rather, the Company shall, at its election, either pay a cash adjustment in respect of such fraction in an amount equal to such fraction multiplied by the exercise price or round up the number of shares of common stock to be issued to the nearest whole number.

Common Stock

Subject to the preferential rights of any other class or series of stock and to the provisions of our charter regarding the restrictions on ownership and transfer of our stock, holders of shares of our common stock are entitled to receive dividends and other distributions on such shares if, as and when authorized by our board of directors out of assets legally available therefore and declared by us and to share ratably in the assets of our company legally available for distribution to our stockholders in the event of our liquidation, dissolution or winding up after payment or establishment of reserves for all known debts and liabilities of our company.

Subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock and except as may otherwise be specified in the terms of any class or series of our common stock, each outstanding share of our common stock entitles the holder to one vote on all matters submitted to a vote of stockholders, including the election of directors, and, except as provided with respect to any other class or series of stock, the holders of shares of common stock will possess the exclusive voting power. There is no cumulative voting in the election of our directors. Directors are elected by a plurality of all of the votes cast in the election of directors.

Holders of shares of our common stock have no preference, conversion, exchange, sinking fund or redemption rights and have no preemptive rights to subscribe for any securities of our company. Our charter provides that our stockholders generally have no appraisal rights unless our board of directors determines prospectively that appraisal rights will apply to one or more transactions in which holders of our common stock would otherwise be entitled to exercise appraisal rights. Subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock, holders of our common stock will have equal dividend, liquidation and other rights.

Under the MGCL, a Maryland corporation generally cannot dissolve, amend its charter, merge, consolidate, sell all or substantially all of its assets or engage in a statutory share exchange unless declared advisable by its board of directors and approved by the affirmative vote of stockholders entitled to cast at least two-thirds of all of the votes entitled to be cast on the matter unless a lesser percentage (but not less than a majority of all of the votes entitled to be cast on the matter) is set forth in the corporation's charter. Our charter provides for approval of any of these matters by the affirmative vote of stockholders entitled to cast a majority of the votes entitled to be cast on such matters, except that the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast generally in the election of directors is required to remove a director and the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on such matter is required to amend the provisions of our charter relating to the removal of directors or specifying that our stockholders may act without a meeting only by unanimous consent, or to amend the vote required to amend such provisions. Maryland law also permits a Maryland corporation to transfer all or substantially all of its assets without the approval of the stockholders of the corporation to an entity if all of the equity interests of the entity are owned, directly or indirectly, by the corporation. Because our operating assets may be held by our Operating Partnership or its subsidiaries, these subsidiaries may be able to merge or transfer all or substantially all of their assets without the approval of our stockholders.

Our charter authorizes our board of directors to reclassify any unissued shares of our common stock into other classes or series of stock, to establish the designation and number of shares of each class or series and to set, subject to the provisions of our charter relating to the restrictions on ownership and transfer of our stock, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of each such class or series.

On August 18, 2014, the closing price of our common stock reported on the Nasdaq Stock Market was $4.95 per share.

Power to Increase or Decrease Authorized Shares of Common Stock and Issue Additional Shares of Common and Preferred Stock

We believe that the power of our board of directors to amend our charter to increase or decrease the aggregate number of authorized shares of stock, to authorize us to issue additional authorized but unissued shares of our common stock or preferred stock and to classify or reclassify unissued shares of our common stock or preferred stock and thereafter to authorize us to issue such classified or reclassified shares of stock will provide us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise. The additional classes or series, as well as the additional authorized shares of common stock, will be available for issuance without further action by our stockholders, unless such action is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. Although our board of directors does not currently intend to do so, it could authorize us to issue a class or series of stock that could, depending upon the terms of the particular class or series, delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for holders of our common stock or that our common stockholders otherwise believe to be in their best interests.

Restrictions on Ownership and Transfer

In order for us to qualify as a REIT under the Internal Revenue Code of 1986, as amended (the "Code"), our stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months (other than the first year for which an election to be a REIT has been made) or during a proportionate part of a shorter taxable year. Also, not more than 50% of the value of the outstanding shares of stock (after taking into account options to acquire shares of stock) may be owned, directly, indirectly or through application of certain attribution rules by five or fewer individuals (as defined in the Code to include certain entities such as private foundations) at any time during the last half of a taxable year (other than the first year for which an election to be a REIT has been made).

Our charter contains Ownership Limits that are intended to assist us in complying with these requirements and continuing to qualify as a REIT. The relevant sections of our charter provide that, subject to the exceptions described below, no person or entity may actually or beneficially own, or be deemed to own by virtue of the applicable constructive ownership provisions of the Code, more than 9.8% (in value or in number of shares, whichever is more restrictive) of the outstanding shares of our common stock, or 9.8% in value of the aggregate of the outstanding shares of all classes and series of our stock, in each case excluding any shares of our common stock that are not treated as outstanding for federal income tax purposes. A person or entity that would have acquired actual, beneficial or constructive ownership of our stock but for the application of the Ownership Limits or any of the other restrictions on ownership and transfer of our stock discussed below is referred to as a "prohibited owner."

The constructive ownership rules under the Code are complex and may cause stock owned actually or constructively by a group of related individuals and/or entities to be owned constructively by one individual or entity. As a result, the acquisition of less than 9.8% of our common stock (or the acquisition of an interest in an entity that owns, actually or constructively, our common stock) by an individual or entity, could, nevertheless cause that individual or entity, or another individual or entity, to own constructively in excess of 9.8% of our outstanding common stock and thereby violate the applicable ownership limit.

Our board of directors, in its sole and absolute discretion, prospectively or retroactively, may exempt a person from either or both of the Ownership Limits if doing so would not result in us 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 and our board of directors determines that:

- such waiver will not cause or allow five or fewer individuals to actually or beneficially own more than 49% in value of the aggregate of the outstanding shares of all classes and series of our stock; and

- subject to certain exceptions, the person does not and will not own, actually or constructively, an interest in a tenant of ours (or a tenant of any entity owned in whole or in part by us) that would cause us 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.

As a condition of the exception, our board of directors may require an opinion of counsel or Internal Revenue Service ruling, in either case in form and substance satisfactory to our board of directors, in its sole and absolute discretion, in order to determine or ensure our status as a REIT and such representations and undertakings from the person requesting the exception as are reasonably necessary to make the determinations above. Our board of directors may impose such conditions or restrictions as it deems appropriate in connection with such an exception.

In connection with a waiver of an Ownership Limit or at any other time, our board of directors may, in its sole and absolute discretion, increase or decrease one or both of the Ownership Limits for one or more persons, except that a decreased ownership limit will not be effective for any person whose actual, beneficial or constructive ownership of our stock exceeds the decreased ownership limit at the time of the decrease until the person's actual, beneficial or constructive ownership of our stock equals or falls below the decreased ownership limit, although any further acquisition of our stock will violate the decreased Ownership Limit. Our board of directors may not increase or decrease any Ownership Limit if, among other limitations, the new ownership limit would allow five or fewer persons to actually or beneficially own more than 49% in value of our outstanding stock or could otherwise cause us to fail to qualify as a REIT.

Our charter further prohibits:

- any person from actually, beneficially or constructively owning shares of our stock that could result in us being "closely held" under 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 cause us to fail to qualify as a REIT (including, but not limited to, actual, beneficial or constructive ownership of shares of our stock that could result in (i) us owning (actually or constructively) an interest in a tenant that is described in Section 856(d)(2)(B) of the Code, or (ii) any manager of a "qualified lodging facility," within the meaning of Section 856(d)(9)(D) of the Code, leased by us to one of our taxable REIT subsidiaries failing to qualify as an "eligible independent contractor" within the meaning of Section 856(d)(9)(A) of the Code, in each case if the income we derive from such tenant or such taxable REIT subsidiary, taking into account our other income that would not qualify under the gross income requirements of Section 856(c) of the Code, would cause us to fail to satisfy any the gross income requirements imposed on REITs); and
- any person from transferring shares of our stock if such transfer would result in shares of our stock being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution).

Any person who acquires or attempts or intends to acquire actual, beneficial or constructive ownership of shares of our stock that will or may violate the Ownership Limits or any of the other restrictions on ownership and transfer of our stock described above must give written notice immediately to us or, in the case of a proposed or attempted transaction, provide us at least 15 days prior written notice, and provide us with such other information as we may request in order to determine the effect of such transfer on our status as a REIT.

The Ownership Limits and other restrictions on ownership and transfer of our stock described above will not apply until the closing of this offering and will not apply if our board of directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT or that compliance is no longer required in order for us to qualify as a REIT.

Pursuant to our charter, if any purported transfer of our stock or any other event would otherwise result in any person violating the Ownership Limits or such other limit established by our board of directors, or could result in us 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, then

that number of shares causing the violation (rounded up to the nearest whole share) will be automatically transferred to, and held by, a trust for the exclusive benefit of one or more charitable organizations selected by us. The prohibited owner will have no rights in shares of our stock held by the trustee. The automatic transfer will be effective as of the close of business on the business day prior to the date of the violative transfer or other event that results in the transfer to the trust. Any dividend or other distribution paid to the prohibited owner, prior to our discovery that the shares had been automatically transferred to a trust as described above, must be repaid to the trustee upon demand. If the transfer to the trust as described above is not automatically effective, for any reason, to prevent violation of the applicable restriction on ownership and transfer of our stock, then that transfer of the number of shares that otherwise would cause any person to violate the above restrictions will be void. If any transfer of our stock would result in shares of our stock being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution), then any such purported transfer will be void and of no force or effect and the intended transferee will acquire no rights in the shares.

Shares of our stock transferred to the trustee are deemed offered for sale to us, or our designee, at a price per share equal to the lesser of (1) the price per share in the transaction that resulted in the transfer of the shares to the trust (or, in the event of a gift, devise or other such transaction, the last reported sale price on the Nasdaq Stock Market on the day of the transfer or other event that resulted in the transfer of such shares to the trust) and (2) the last reported sale price on the Nasdaq Stock Market on the date we accept, or our designee accepts, such offer. We must reduce the amount payable to the prohibited owner by the amount of dividends and distributions paid to the prohibited owner and owed by the prohibited owner to the trustee and pay the amount of such reduction to the trustee for the benefit of the charitable beneficiary. We have the right to accept such offer until the trustee has sold the shares of our stock held in the trust. Upon a sale to us, the interest of the charitable beneficiary in the shares sold terminates and the trustee must distribute the net proceeds of the sale to the prohibited owner and any dividends or other distributions held by the trustee with respect to such stock will be paid to the charitable beneficiary.

If we do not buy the shares, the trustee must, within 20 days of receiving notice from us of the transfer of shares to the trust, sell the shares to a person or persons designated by the trustee who could own the shares without violating the Ownership Limits or other restrictions on ownership and transfer of our stock. Upon such sale, the trustee must distribute to the prohibited owner an amount equal to the lesser of (1) the price paid by the prohibited owner for the shares (or, if the prohibited owner did not give value in connection with the transfer or other event that resulted in the transfer to the trust (e.g., a gift, devise or other such transaction), the last reported sale price on the Nasdaq Stock Market on the day of the transfer or other event that resulted in the transfer of such shares to the trust) and (2) the sales proceeds (net of commissions and other expenses of sale) received by the trustee for the shares. The trustee will reduce the amount payable to the prohibited owner by the amount of dividends and other distributions paid to the prohibited owner and owed by the prohibited owner to the trustee. Any net sales proceeds in excess of the amount payable to the prohibited owner will be immediately paid to the charitable beneficiary, together with any dividends or other distributions thereon. In addition, if prior to discovery by us that shares of our stock have been transferred to the trustee, such shares of stock are sold by a prohibited owner, then such shares shall be deemed to have been sold on behalf of the trust and, to the extent that the prohibited owner received an amount for or in respect of such shares that exceeds the amount that such prohibited owner was entitled to receive, such excess amount shall be paid to the trustee upon demand.

The trustee will be designated by us and will be unaffiliated with us and with any prohibited owner. Prior to the sale of any shares by the trust, the trustee will receive, in trust for the charitable beneficiary, all dividends and other distributions paid by us with respect to such shares, and may exercise all voting rights with respect to such shares for the exclusive benefit of the charitable beneficiary.

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

- rescind as void any vote cast by a prohibited owner prior to our discovery that the shares have been transferred to the trust; and

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

However, if we have already taken irreversible corporate action, then the trustee may not rescind and recast the vote.

If our board of directors or a committee thereof determines in good faith that a proposed transfer or other event has taken place that violates the restrictions on ownership and transfer of our stock set forth in our charter, our board of directors or such committee may take such action as it deems advisable in its sole discretion to refuse to give effect to or to prevent such transfer, including, but not limited to, causing us to redeem shares of stock, refusing to give effect to the transfer on our books or instituting proceedings to enjoin the transfer.

Every owner of 5% or more (or such lower percentage as required by the Code or the U.S. Treasury regulations promulgated thereunder) of the outstanding shares of our stock, within 30 days after the end of each taxable year, must give written notice to us stating the name and address of such owner, the number of shares of each class and series of our stock that the owner beneficially owns and a description of the manner in which the shares are held. Each such owner also must provide us with any additional information that we request in order to determine the effect, if any, of the person's actual or beneficial ownership on our status as a REIT and to ensure compliance with the Ownership Limits. In addition, any person that is an actual owner, beneficial owner or constructive owner of shares of our stock and any person (including the stockholder of record) who is holding shares of our stock for an actual owner, beneficial owner or constructive owner must, on request, disclose to us such information as we may request in good faith in order to determine our status as a REIT and comply with requirements of any taxing authority or governmental authority or to determine such compliance.

Any certificates representing shares of our stock will bear a legend referring to the restrictions on ownership and transfer of our stock described above.

These restrictions on ownership and transfer could delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for our common stock that our stockholders believe to be in their best interest.

Transfer Agent and Registrar

The transfer agent and registrar for our (a) shares of common stock (b) Series B Preferred Stock and (c) the Warrants is Computershare Trust Company, N.A. 250 Royall Street, Canton, Massachusetts 02021.

MATERIAL PROVISIONS OF MARYLAND LAW AND THE CHARTER AND BYLAWS

Although the following summary describes certain provisions of Maryland law and the material provisions of our charter and bylaws, it is not a complete description of Maryland law or our charter and bylaws, copies of which are filed as exhibits to the registration statement of which this prospectus is a part and are available from us upon request. See "Where You Can Find More Information."

Our Board of Directors

Our charter and bylaws provide that the number of directors of our company may be established, increased or decreased only by a majority of our entire board of directors but may not be fewer than the minimum number required by the MGCL nor, unless our bylaws are amended, more than 11. We currently have 8 directors, five of which are independent.

Our charter also provides that, except as may be provided by our board of directors in setting the terms of any class or series of stock, any vacancy may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum. Any director so elected will serve for the remainder of the full term of the directorship in which the vacancy occurred and until a successor is duly elected and qualifies.

Each of our directors is elected by our stockholders to serve until the next annual meeting of stockholders and until his or her successor is duly elected and qualifies under the MGCL. Holders of shares of our common stock will have no right to cumulative voting in the election of directors. Directors are elected by a plurality of the votes cast.

Removal of Directors

Our charter provides that, subject to the rights of holders of one or more classes or series of preferred stock to elect or remove one or more directors, a director may be removed only for cause (as defined in our charter) and only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. This provision, when coupled with the exclusive power of our board of directors to fill vacant directorships, may preclude stockholders from removing incumbent directors except for cause and by a substantial affirmative vote and filling the vacancies created by such removal with their own nominees.

Business Combinations

Under the MGCL, certain "business combinations" (including a merger, consolidation, share exchange or, in certain circumstances specified under the statute, an asset transfer or issuance or reclassification of equity securities) between a Maryland corporation and any interested stockholder, or an affiliate of such an interested stockholder, are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. Maryland law defines an interested stockholder as:

- any person who beneficially owns, directly or indirectly, 10% or more of the voting power of the corporation's outstanding voting stock; or
- an affiliate or associate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then outstanding voting stock of the corporation.

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

After such five-year period, any such business combination must be recommended by the board of directors of the corporation and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation; and
- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested stockholder with whom (or with whose affiliate) the business combination is to be effected or held by an affiliate or associate of the interested stockholder.

These supermajority approval requirements do not apply if, among other conditions, the corporation's common stockholders receive a minimum price (as defined in the MGCL) for their shares and the consideration is received in cash or in the same form as previously paid by the interested stockholder for its shares.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by a corporation's board of directors prior to the time that the interested stockholder becomes an interested stockholder. Our board of directors has, by board resolution, elected to opt out of the business combination provisions of the MGCL. However, we cannot assure you that our board of directors will not opt to be subject to such business combination provisions in the future. Notwithstanding the foregoing, an alteration or repeal of this resolution will not have any effect on any business combinations that have been consummated or upon any agreements existing at the time of such modification or repeal.

Control Share Acquisitions

The MGCL provides that holders of "control shares" of a Maryland corporation acquired in a "control share acquisition" have no voting rights with respect to any control shares except to the extent approved by the affirmative vote of at least two-thirds of the votes entitled to be cast in the election of directors, generally, excluding shares of stock in a corporation in respect of which any of the following persons is entitled to exercise or direct the exercise of the voting power of such shares in the election of directors: (1) the person who made or proposes to make a control share acquisition, (2) an officer of the corporation or (3) an employee of the corporation who is also a director of the corporation. "Control shares" are voting shares of stock that, if aggregated with all other such shares of stock previously acquired by the acquirer or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise voting power in electing directors within one of the following ranges of voting power:

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

Control shares do not include shares that the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. A "control share acquisition" means the acquisition, directly or indirectly, of ownership of, or the power to direct the exercise of voting power with respect to, issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses and making an "acquiring person statement" as described in the MGCL), may compel the corporation to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the control shares. If no request for a special meeting is made, the corporation may itself present the question at any stockholders meeting.

If voting rights of control shares are not approved at the meeting or if the acquiring person does not deliver an "acquiring person statement" as required by the statute, then, subject to certain conditions and limitations, the corporation may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value determined, without regard to the absence of voting rights for the control shares, as

of the date of the last control share acquisition by the acquirer or of any meeting of stockholders at which the voting rights of such shares are considered and not approved. If voting rights for control shares are approved at a stockholders meeting and the acquirer becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition.

The control share acquisition statute does not apply to: (1) shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction or (2) acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of shares of our stock. We cannot provide you any assurance, however, that our board of directors will not amend or eliminate this provision at any time in the future.

Subtitle 8

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

- a classified board;
- a two-thirds vote requirement for removing a director;
- a requirement that the number of directors be fixed only by vote of the directors;
- a requirement that a vacancy on the board be filled only by the remaining directors and for the remainder of the full term of the class of directors in which the vacancy occurred; or
- a majority requirement for the calling of a special meeting of stockholders.

Our charter provides that, at such time as we become eligible to make a Subtitle 8 election and except as may be provided by our board of directors in setting the terms of any class or series of stock, we elect to be subject to the provisions of Subtitle 8 relating to the filling of vacancies on our board of directors. Through provisions in our charter and bylaws unrelated to Subtitle 8, we currently (1) require a two-thirds vote for the removal of any director from the board, which removal will be allowed only for cause, (2) vest in the board the exclusive power to fix the number of directorships, subject to limitations set forth in our charter and bylaws and (3) require, unless called by the chairman of our board of directors, our president, our chief executive officer or our board of directors, the request of stockholders entitled to cast not less than a majority of all votes entitled to be cast on a matter at such meeting to call a special meeting to consider and vote on any matter that may properly be considered at a meeting of stockholders. We have not elected to create a classified board. In the future, our board of directors may elect, without stockholder approval, to create a classified board or elect to be subject to one or more of the other provisions of Subtitle 8.

Amendments to Our Charter and Bylaws

Other than amendments to certain provisions of our charter described below and amendments permitted to be made without stockholder approval under Maryland law or by a specific provision in the charter, our charter may be amended only if such amendment is declared advisable by our board of directors and approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter. The provisions of our charter relating to the removal of directors or specifying that our stockholders may act without a meeting only by unanimous consent, or the provision specifying the vote required to amend such provisions, may be amended only if such amendment is declared advisable by our board of directors and approved by the affirmative vote of stockholders entitled to cast not less than two-thirds of all of the votes entitled to be cast on the matter. Our board of directors has the exclusive power to adopt, alter or repeal any provision of our bylaws or to make new bylaws.

Transactions Outside the Ordinary Course of Business

We generally may not merge with or into or consolidate with another company, sell all or substantially all of our assets or engage in a statutory share exchange unless such transaction is declared advisable by our board of directors and approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter. In addition, to the extent that such a merger, consolidation, sale of assets of statutory share exchange would require the vote of our stockholders, such transaction would also require the approval of the limited partners of our Operating Partnership.

Dissolution of Our Company

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

Meetings of Stockholders

Under our bylaws, annual meetings of stockholders must be held each year at a date, time and place determined by our board of directors. Special meetings of stockholders may be called by the chairman of our board of directors, our chief executive officer, our president and our board of directors. Additionally, subject to the provisions of our bylaws, a special meeting of stockholders to act on any matter that may properly be considered at a meeting of stockholders must be called by our secretary upon the written request of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter at such meeting who have requested the special meeting in accordance with the procedures specified in our bylaws and provided the information and certifications required by our bylaws. Only matters set forth in the notice of a special meeting of stockholders may be considered and acted upon at such a meeting. The first annual meeting of our stockholders was held on December 20, 2013.

Advance Notice of Director Nominations and New Business

Our bylaws provide that:

- with respect to an annual meeting of stockholders, nominations of individuals for election to the board of directors and the proposal of business to be considered by stockholders at the annual meeting may be made only:
- pursuant to our notice of the meeting;
- by or at the direction of our board of directors; or
- by a stockholder who was a stockholder of record both at the time of giving of the notice required by our bylaws and at the time of the annual meeting, who is entitled to vote at the meeting in the election of each individual so nominated or on such other business and who has provided the information and certifications required by the advance notice procedures set forth in our bylaws; and
- with respect to special meetings of stockholders, only the business specified in our notice of meeting may be brought before the meeting of stockholders, and nominations of individuals for election to our board of directors may be made only:
- by or at the direction of our board of directors; or
- provided that the meeting has been called for the purpose of electing directors, by a stockholder who is a stockholder of record both at the time of giving of the notice required by our bylaws and at the time of the meeting, who is entitled to vote at the meeting in the election of each individual so nominated and who has provided the information and certifications required by the advance notice procedures set forth in our bylaws.

The purpose of requiring stockholders to give advance notice of nominations and other proposals is to afford our board of directors the opportunity to consider the qualifications of the proposed nominees or the advisability of the other proposals and, to the extent considered necessary by our board of directors, to inform stockholders and make recommendations regarding the nominations or other proposals. The advance notice procedures also permit a more orderly procedure for conducting our stockholder meetings.

Anti-takeover Effect of Certain Provisions of Maryland Law and Our Charter and Bylaws

The restrictions on ownership and transfer of our stock, the provisions of our charter regarding the removal of directors, the exclusive power of our board of directors to fill vacancies on the board and the advance notice provisions of the bylaws could delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for holders of our common stock or otherwise be in their best interests. Likewise, if our board of directors were to opt in to the business combination provisions of the MGCL or the provisions of Subtitle 8 of Title 3 of the MGCL providing for a classified board of directors, or if the provision in our bylaws opting out of the control share acquisition provisions of the MGCL were amended or rescinded, these provisions of the MGCL could have similar anti-takeover effects.

Indemnification and Limitation of Directors' and Officers' Liability

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from actual receipt of an improper benefit or profit in money, property or services or active and deliberate dishonesty that is established by a final judgment and is material to the cause of action. Our charter contains a provision that eliminates such liability to the maximum extent permitted by Maryland law.

The MGCL requires a Maryland corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. The MGCL 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 or are threatened to be made a party by reason of their service in those or other capacities unless it is established that:

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

However, under the MGCL, a Maryland corporation may not indemnify a director or officer for an adverse judgment in a suit by or in the right of the corporation or if the director or officer was adjudged liable on the basis that personal benefit was improperly received, unless in either case a court orders indemnification and then only for expenses. In addition, the MGCL permits a Maryland corporation to advance reasonable expenses to a director or officer, without requiring a preliminary determination of the director's or officer's ultimate entitlement to indemnification, upon the corporation's receipt of:

- a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation; and
- a written undertaking by the director or officer or on the director's or officer's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director or officer did not meet the standard of conduct.

Our charter authorizes us to obligate our company and our bylaws obligate us, to the fullest extent permitted by Maryland law in effect from time to time, to indemnify and to pay or reimburse reasonable expenses in advance of final disposition of a proceeding, without requiring a preliminary determination of the director's or officer's ultimate entitlement to indemnification, to:

- any present or former director or officer who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity; or
- any individual who, while serving as our director or officer and at our request, serves or has served as a director, officer, partner, trustee, member or manager of another corporation, real estate investment trust, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity.

Our charter and bylaws also permit us, with the approval of our board of directors, to indemnify and advance expenses to any person who served a predecessor of ours in any of the capacities described above and to any employee or agent of our company or a predecessor of our company.

Insofar as the foregoing provisions permit indemnification of directors, officers or persons controlling us for liability arising under the Securities Act, we have been informed that in the opinion of the SEC, this indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Restrictions on Ownership and Transfer

Subject to certain exceptions, our charter provides that no person or entity may actually or beneficially own, or be deemed to own by virtue of the applicable constructive ownership provisions of the Code, more than 9.8% (in value or number of shares, whichever is more restrictive) of the outstanding shares of our common stock or more than 9.8% in value of the aggregate outstanding shares of our stock.

REIT Qualification

Our charter provides that our board of directors may revoke or otherwise terminate our REIT election, without approval of our stockholders, if it determines that it is no longer in our best interests to continue to be qualified as a REIT. Our charter also provides that our board of directors may determine that compliance with the restrictions on ownership and transfer of our stock is no longer required in order for us to qualify as a REIT.

MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following is a general summary of certain material U.S. federal income tax considerations regarding our company and this offering of our common stock. For purposes of this discussion, references to "we," "our" and "us" mean only Wheeler Real Estate Investment Trust, Inc., and do not include any of its subsidiaries, except as otherwise indicated. This summary is for general information only and is not tax advice. The information in this summary is based on:

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

in each case, as of the date of this prospectus. In addition, the administrative interpretations and practices of the IRS include its practices and policies as expressed in private letter rulings that are not binding on the IRS except with respect to the particular taxpayers who requested and received those rulings. The sections of the Code and the corresponding Treasury Regulations that relate to qualification and taxation as a REIT are highly technical and complex. The following discussion sets forth certain material aspects of the sections of the Code that govern the federal income tax treatment of a REIT and its stockholders. This summary is qualified in its entirety by the applicable Code provisions, Treasury Regulations promulgated under the Code, and administrative and judicial interpretations thereof. Future legislation, Treasury Regulations, administrative interpretations and practices and/or court decisions may adversely affect the tax considerations contained in this discussion. Any such change could apply retroactively to transactions preceding the date of the change. We have not requested and do not intend to request a ruling from the IRS that we qualify as a REIT, and the statements in this prospectus are not binding on the IRS or any court. Thus, we can provide no assurance that the tax considerations contained in this discussion will not be challenged by the IRS or will be sustained by a court if challenged by the IRS. This summary does not discuss any state, local or non-U.S. tax consequences associated with the purchase, ownership, or disposition of our common stock or our election to be taxed as a REIT.

- You are urged to consult your own tax advisors regarding the tax consequences to you of:
- the purchase, ownership or disposition of our common stock, including the federal, state, local, non-U.S. and other tax consequences;
- our election to be taxed as a REIT for federal income tax purposes; and
- potential changes in applicable tax laws.

Taxation of Our Company

General

We elected to be taxed as a REIT under Sections 856 through 860 of the Code commencing with our taxable year ending December 31, 2012. We believe that we are organized and operate in a manner that allows us to qualify for taxation as a REIT under the Code commencing with our taxable year ending December 31, 2012, and we intend to continue to be organized and operate in this manner. Kaufman & Canoles, P.C. has acted as our special tax counsel and will render an opinion to us to the affect that we have been organized in conformity with the requirements for qualification as a REIT under the Code, and our current and proposed operations will enable us to meet the requirements for qualification and taxation as a REIT under the Code. However, qualification and taxation as a REIT depend upon our ability to meet the various qualification tests imposed under the Code, including through actual annual operating results, asset composition, distribution levels and diversity of stock ownership. Accordingly, no assurance can be given that we have been organized or will be able to operate in a manner so as to qualify or remain qualified as a REIT. See "—Failure to Qualify."

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

- First, we will be required to pay tax at regular corporate rates on any undistributed REIT taxable income, including undistributed net capital gains.
- Second, we may be required to pay the "alternative minimum tax" on our items of tax preference under some circumstances.
- Third, if we have (1) net income from the sale or other disposition of "foreclosure property" held primarily for sale to customers in the ordinary course of business or (2) other nonqualifying income from foreclosure property, we will be required to pay tax at the highest corporate rate on this income. To the extent that income from foreclosure property is otherwise qualifying income for purposes of the 75% gross income test, this tax is not applicable. Subject to certain other requirements, foreclosure property generally is defined as property we acquired through foreclosure or after a default on a loan secured by the property or a lease of the property.
- Fourth, we will be required to pay a 100% tax on any net income from prohibited transactions. Prohibited transactions are, in general, sales or other taxable dispositions of property, other than foreclosure property, held primarily for sale to customers in the ordinary course of business.
- Fifth, if we fail to satisfy the 75% gross income test or the 95% gross income test, as described below, but have otherwise maintained our qualification as a REIT because certain other requirements are met, we will be required to pay a tax equal to (1) the greater of (A) the amount by which we fail to satisfy the 75% gross income test and (B) the amount by which we fail to satisfy the 95% gross income test, multiplied by (2) a fraction intended to reflect our profitability.
- Sixth, if we fail to satisfy any of the asset tests (other than a de minimis failure of the 5% or 10% asset test), as described below, due to reasonable cause and not due to willful neglect, and we nonetheless maintain our REIT qualification because of specified cure provisions, we will be required to pay a tax equal to the greater of $50,000 or the highest corporate tax rate multiplied by the net income generated by the nonqualifying assets that caused us to fail such test.
- Seventh, if we fail to satisfy any provision of the Code that would result in our failure to qualify as a REIT (other than a violation of the gross income tests or certain violations of the asset tests, as described below) and the violation is due to reasonable cause and not due to willful neglect, we may retain our REIT qualification but we will be required to pay a penalty of $50,000 for each such failure.
- Eighth, we will be required to pay a 4% excise tax to the extent we fail to distribute during each calendar year at least the sum of (1) 85% of our ordinary income for the year, (2) 95% of our capital gain net income for the year, and (3) any undistributed taxable income from prior periods.
- Ninth, if we acquire any asset from a corporation that is or has been a C corporation in a transaction in which our basis in the asset is determined by reference to the C corporation's basis in the asset, and we subsequently recognize gain on the disposition of the asset during the ten-year period beginning on the date on which we acquired the asset, then we will be required to pay tax at the highest regular corporate tax rate on this gain to the extent of the excess of (1) the fair market value of the asset over (2) our adjusted basis in the asset, in each case determined as of the date on which we acquired the asset. The results described in this paragraph with respect to the recognition of gain assume that the C corporation will refrain from making an election to receive different treatment under applicable Treasury Regulations on its tax return for the year in which we acquire the asset from the C corporation.

- Tenth, any subsidiaries that are C corporations, including any "taxable REIT subsidiaries," generally will be required to pay federal corporate income tax on their earnings.
- Eleventh, we will be required to pay a 100% tax on any "redetermined rents," "redetermined deductions" or "excess interest." See "—Penalty Tax." In general, redetermined rents are rents from real property that are overstated as a result of services furnished to any of our tenants by a taxable REIT subsidiary of ours. Redetermined deductions and excess interest generally represent amounts that are deducted by a taxable REIT subsidiary of ours for amounts paid to us that are in excess of the amounts that would have been deducted based on arm's length negotiations.
- Twelfth, we may elect to retain and pay income tax on our net capital gain. In that case, a stockholder would include its proportionate share of our undistributed net capital gain (to the extent we make a timely designation of such gain to the stockholder) in its income, would be deemed to have paid the tax that we paid on such gain, and would be allowed a credit for its proportionate share of the tax deemed to have been paid, and an adjustment would be made to increase the basis of the stockholder in our common stock.

Requirements for Qualification as a REIT. The Code defines a REIT as a corporation, trust or association:

(1) that is managed by one or more trustees or directors;

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

(3) that would be taxable as a domestic corporation, but for Sections 856 through 860 of the Code;

(4) that is not a financial institution or an insurance company within the meaning of certain provisions of the Code;

(5) that is beneficially owned by 100 or more persons;

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

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

The Code provides that conditions (1) to (4), inclusive, must be met during the entire taxable year and that condition (5) must be met during at least 335 days of a taxable year of 12 months, or during a proportionate part of a taxable year of less than 12 months. Conditions (5) and (6) do not apply until after the first taxable year for which an election is made to be taxed as a REIT. For purposes of condition (6), the term "individual" includes a supplemental unemployment compensation benefit plan, a private foundation or a portion of a trust permanently set aside or used exclusively for charitable purposes, but generally does not include a qualified pension plan or profit sharing trust.

We believe that we have been organized, will operate and will issue sufficient shares of our common stock with sufficient diversity of ownership pursuant to this offering of our common stock to allow us to satisfy conditions (1) through (7) inclusive, during the relevant time periods. In addition, our charter provides for restrictions regarding ownership and transfer of our shares which are intended to assist us in continuing to satisfy the share ownership requirements described in (5) and (6) above. A description of the share ownership and transfer restrictions relating to our stock is contained in the discussion in this prospectus under the heading "Description of Securities—Restrictions on Ownership and Transfer." These restrictions, however, may not ensure that we will, in all cases, be able to satisfy the share ownership requirements described in (5) and (6) above. If we fail to satisfy these share ownership requirements, except as provided in the next sentence, our status as a REIT will terminate. If, however, we comply with the rules contained in applicable Treasury Regulations that require us to ascertain the actual ownership of our shares and we do not know, or would not have known through the exercise of reasonable diligence, that we failed to meet the requirement described in condition (6) above, we will be treated as having met this requirement. See "—Failure to Qualify."

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

Ownership of Interests in Partnerships, Limited Liability Companies and Qualified REIT Subsidiaries. In the case of a REIT that is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, Treasury Regulations provide that the REIT will be deemed to own its proportionate share of the assets of the partnership or limited liability company, as the case may be, based on its interest in partnership capital, subject to special rules relating to the 10% asset test described below. Also, the REIT will be deemed to be entitled to its proportionate share of the income of that entity. The assets and gross income of the partnership or limited liability company retain the same character in the hands of the REIT for purposes of Section 856 of the Code, including satisfying the gross income tests and the asset tests. Thus, our pro rata share of the assets and items of income of our Operating Partnership, including our Operating Partnership's share of these items of any partnership or limited liability company treated as a partnership or disregarded entity for federal income tax purposes in which it owns an interest, is treated as our assets and items of income for purposes of applying the requirements described in this discussion, including the gross income and asset tests described below. A brief summary of the rules governing the federal income taxation of partnerships and limited liability companies is set forth below in "—Tax Aspects of Our Operating Partnership, the Subsidiary Partnerships and the Limited Liability Companies."

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

We may from time to time own and operate certain properties through subsidiaries that we intend to be treated as "qualified REIT subsidiaries" under the Code. A corporation will qualify as our qualified REIT subsidiary if we own 100% of the corporation's outstanding stock and do not elect with the subsidiary to treat it as a "taxable REIT subsidiary," as described below. A qualified REIT subsidiary is not treated as a separate corporation, and all assets, liabilities and items of income, gain, loss, deduction and credit of a qualified REIT subsidiary are treated as assets, liabilities and items of income, gain, loss, deduction and credit of the parent REIT for all purposes under the Code, including all REIT qualification tests. Thus, in applying the federal tax requirements described in this discussion, any qualified REIT subsidiaries we own are ignored, and all assets, liabilities and items of income, gain, loss, deduction and credit of such corporations are treated as our assets, liabilities and items of income, gain, loss, deduction and credit. A qualified REIT subsidiary is not subject to federal income tax, and our ownership of the stock of a qualified REIT subsidiary will not violate the restrictions on ownership of securities, as described below under "—Asset Tests."

Ownership of Interests in Taxable REIT Subsidiaries. We may own an interest in one or more taxable REIT subsidiaries in the future. A taxable REIT subsidiary is a corporation other than a REIT in which a REIT directly or indirectly holds stock, and that has made a joint election with such REIT to be treated as a taxable REIT subsidiary. If a taxable REIT subsidiary owns more than 35% of the total voting power or value of the outstanding securities of another corporation, such other corporation will also be treated as a taxable REIT subsidiary. Other than some activities relating to lodging and health care facilities as more fully described below under "—Income Tests," a taxable REIT subsidiary may generally engage in any business, including the provision of customary or non-customary services to tenants of its parent REIT. A taxable REIT subsidiary is subject to federal income tax as a regular C corporation. In addition, a taxable REIT subsidiary may be prevented from deducting interest on debt funded directly or indirectly by its parent REIT if certain tests regarding the

taxable REIT subsidiary's debt to equity ratio and interest expense are not satisfied. A REIT's ownership of securities of a taxable REIT subsidiary is not subject to the 5% or 10% asset test described below. See "—Asset Tests."

Income Tests

We must satisfy two gross income requirements annually to maintain our qualification as a REIT. First, in each taxable year we must derive directly or indirectly at least 75% of our gross income (excluding gross income from prohibited transactions, certain hedging transactions, and certain foreign currency gains) from investments relating to real property or mortgages on real property, including "rents from real property" and, in certain circumstances, interest, or certain types of temporary investments. Second, in each taxable year we must derive at least 95% of our gross income (excluding gross income from prohibited transactions, certain hedging transactions, and certain foreign currency gains) from the real property investments described above or dividends, interest and gain from the sale or disposition of stock or securities, or any combination of the foregoing. For these purposes, the term "interest" generally does not include any amount received or accrued, directly or indirectly, if the determination of all or some of the amount depends in any way on the income or profits of any person. However, an amount received or accrued generally will not be excluded from the term "interest" solely by reason of being based on a fixed percentage or percentages of receipts or sales.

Rents we receive from a tenant will qualify as "rents from real property" for the purpose of satisfying the gross income requirements for a REIT described above only if all of the following conditions are met:

- The amount of rent is not based in any way on the income or profits of any person. However, an amount we receive or accrue generally will not be excluded from the term "rents from real property" solely because it is based on a fixed percentage or percentages of receipts or sales;
- Neither we nor an actual or constructive owner of 10% or more of our stock actually or constructively owns 10% or more of the interests in the assets or net profits of a non-corporate tenant, or, if the tenant is a corporation, 10% or more of the voting power or value of all classes of stock of the tenant. Rents we receive from such a tenant that is a taxable REIT subsidiary of ours, however, will not be excluded from the definition of "rents from real property" as a result of this condition if (1) at least 90% of the space at the property to which the rents relate is leased to third parties, and the rents paid by the taxable REIT subsidiary are substantially comparable to rents paid by our other tenants for comparable space, or (2) the property to which the rents relate is a qualified lodging facility and such property is operated on behalf of the taxable REIT subsidiary by a person who is an eligible independent contractor and certain other requirements are met, as described below. Whether rents paid by a taxable REIT subsidiary are substantially comparable to rents paid by other tenants is determined at the time the lease with the taxable REIT subsidiary is entered into, extended, and modified, if such modification increases the rents due under such lease. Notwithstanding the foregoing, however, if a lease with a "controlled taxable REIT subsidiary" is modified and such modification results in an increase in the rents payable by such taxable REIT subsidiary, any such increase will not qualify as "rents from real property." For purposes of this rule, a "controlled taxable REIT subsidiary" is a taxable REIT subsidiary in which the parent REIT owns stock possessing more than 50% of the voting power or more than 50% of the total value of the outstanding stock of such taxable REIT subsidiary;
- Rent attributable to personal property, leased in connection with a lease of real property, is not greater than 15% of the total rent received under the lease. If this condition is not met, then the portion of the rent attributable to personal property will not qualify as "rents from real property." To the extent that rent attributable to personal property, leased in connection with a lease of real property, exceeds 15% of the total rent received under the lease, we may transfer a portion of such personal property to a taxable REIT subsidiary; and
- We generally do not operate or manage the property or furnish or render services to our tenants, subject to a 1% de minimis exception and except as provided below. We may, however, perform services that

are "usually or customarily rendered" in connection with the rental of space for occupancy only and are not otherwise considered "rendered to the occupant" of the property. Examples of these services include the provision of light, heat, or other utilities, trash removal and general maintenance of common areas. In addition, we may employ an independent contractor from whom we derive no revenue to provide customary services, or a taxable REIT subsidiary, which may be wholly or partially owned by us, to provide both customary and non-customary services to our tenants without causing the rent we receive from those tenants to fail to qualify as "rents from real property." Any amounts we receive from a taxable REIT subsidiary with respect to the taxable REIT subsidiary's provision of non-customary services will, however, be nonqualifying income under the 75% gross income test and, except to the extent received through the payment of dividends, the 95% gross income test.

From time to time, we may enter into hedging transactions with respect to one or more of our assets or liabilities. Our hedging activities may include entering into interest rate swaps, caps, and floors, options to purchase these items, and futures and forward contracts. Income from a hedging transaction, including gain from the sale or disposition of such a transaction, that is clearly identified as a hedging transaction as specified in the Code will not constitute gross income and thus will be exempt from the 75% and 95% gross income tests. The term "hedging transaction," as used above, generally means any transaction we enter into in the normal course of our business primarily to manage risk of (1) interest rate changes or fluctuations with respect to borrowings made or to be made by us to acquire or carry real estate assets, or (2) currency fluctuations with respect to an item of qualifying income under the 75% or 95% gross income test. To the extent that we do not properly identify such transactions as hedges or we hedge with other types of financial instruments, the income from those transactions is not likely to be treated as qualifying income for purposes of the gross income tests. We intend to structure any hedging transactions in a manner that does not jeopardize our status as a REIT.

To the extent any taxable REIT subsidiaries pay dividends, we generally will derive our allocable share of such dividend income through our interest in our Operating Partnership. Such dividend income will qualify under the 95%, but not the 75%, gross income test.

We will monitor the amount of the dividend and other income from any taxable REIT subsidiaries and will take actions intended to keep this income, and any other nonqualifying income, within the limitations of the gross income tests. Although we expect these actions will be sufficient to prevent a violation of the gross income tests, we cannot guarantee that such actions will in all cases prevent such a violation.

If we fail to satisfy one or both of the 75% or 95% gross income tests for any taxable year, we may nevertheless qualify as a REIT for the year if we are entitled to relief under certain provisions of the Code. We generally may make use of the relief provisions if:

- following our identification of the failure to meet the 75% or 95% gross income tests for any taxable year, we file a schedule with the IRS setting forth each item of our gross income for purposes of the 75% or 95% gross income tests for such taxable year in accordance with Treasury Regulations to be issued; and
- our failure to meet these tests was due to reasonable cause and not due to willful neglect.

It is not possible, however, to state whether in all circumstances we would be entitled to the benefit of these relief provisions. For example, if we fail to satisfy the gross income tests because nonqualifying income that we intentionally accrue or receive exceeds the limits on nonqualifying income, the IRS could conclude that our failure to satisfy the tests was not due to reasonable cause. If these relief provisions do not apply to a particular set of circumstances, we will not qualify as a REIT. As discussed above in "—Taxation of Our Company—General," even if these relief provisions apply, and we retain our status as a REIT, a tax would be imposed with respect to our nonqualifying income. We may not always be able to comply with the gross income tests for REIT qualification despite periodic monitoring of our income.

Prohibited Transaction Income. Any gain that we realize on the sale of property held as inventory or otherwise held primarily for sale to customers in the ordinary course of business, including our share of any such gain realized by our Operating Partnership, either directly or through its subsidiary partnerships and limited liability companies, will be treated as income from a prohibited transaction that is subject to a 100% penalty tax, unless certain safe harbor exceptions apply. This prohibited transaction income may also adversely affect our ability to satisfy the gross income tests for qualification as a REIT. Under existing law, whether property is held as inventory or primarily for sale to customers in the ordinary course of a trade or business is a question of fact that depends on all the facts and circumstances surrounding the particular transaction. Our Operating Partnership intends to hold its properties for investment with a view to long-term appreciation, to engage in the business of acquiring, developing and owning its properties and to make occasional sales of the properties as are consistent with our Operating Partnership's investment objectives. We do not intend to enter into any sales that are prohibited transactions. However, the IRS may successfully contend that some or all of the sales made by our Operating Partnership or its subsidiary partnerships or limited liability companies are prohibited transactions. We would be required to pay the 100% penalty tax on our allocable share of the gains resulting from any such sales.

Penalty Tax. Any redetermined rents, redetermined deductions or excess interest we generate will be subject to a 100% penalty tax. In general, redetermined rents are rents from real property that are overstated as a result of any services furnished to any of our tenants by a taxable REIT subsidiary of ours, and redetermined deductions and excess interest represent any amounts that are deducted by a taxable REIT subsidiary of ours for amounts paid to us that are in excess of the amounts that would have been deducted based on arm's length negotiations. Rents we receive will not constitute redetermined rents if they qualify for certain safe harbor provisions contained in the Code.

Asset Tests

At the close of each calendar quarter of our taxable year, we must also satisfy four tests relating to the nature and diversification of our assets. First, at least 75% of the value of our total assets must be represented by real estate assets, cash, cash items and government securities. For purposes of this test, the term "real estate assets" generally means real property (including interests in real property and interests in mortgages on real property) and shares (or transferable certificates of beneficial interest) in other REITs, as well as any stock or debt instrument attributable to the investment of the proceeds of a stock offering or a public offering of debt with a term of at least five years, but only for the one-year period beginning on the date the REIT receives such proceeds.

Second, not more than 25% of the value of our total assets may be represented by securities (including securities of one or more taxable REIT subsidiaries), other than those securities includable in the 75% asset test.

Third, of the investments included in the 25% asset class, and except for investments in other REITs, any qualified REIT subsidiaries and taxable REIT subsidiaries, the value of any one issuer's securities may not exceed 5% of the value of our total assets, and we may not own more than 10% of the total vote or value of the outstanding securities of any one issuer except, in the case of the 10% value test, securities satisfying the "straight debt" safe-harbor or securities issued by a partnership that itself would satisfy the 75% income test if it were a REIT. Certain types of securities we may own are disregarded as securities solely for purposes of the 10% value test, including, but not limited to, any loan to an individual or an estate, any obligation to pay rents from real property and any security issued by a REIT. In addition, solely for purposes of the 10% value test, the determination of our interest in the assets of a partnership or limited liability company in which we own an interest will be based on our proportionate interest in any securities issued by the partnership or limited liability company, excluding for this purpose certain securities described in the Code.

Fourth, not more than 25% of the value of our total assets may be represented by the securities of one or more taxable REIT subsidiaries. Our Operating Partnership will own 100% of the securities of one or more corporations that will elect, together with us, to be treated as our taxable REIT subsidiaries, and we may acquire securities in other taxable REIT subsidiaries in the future.

The asset tests must be satisfied at the close of each calendar quarter of our taxable year in which we (directly or through our Operating Partnership) acquire securities in the applicable issuer, and also at the close of each calendar quarter in which we increase our ownership of securities of such issuer (including as a result of increasing our interest in our Operating Partnership). For example, our indirect ownership of securities of each issuer will increase as a result of our capital contributions to our Operating Partnership or as limited partners exercise their redemption/exchange rights. Accordingly, after initially meeting the asset tests at the close of any quarter, we will not lose our status as a REIT for failure to satisfy the asset tests at the end of a later quarter solely by reason of changes in asset values. If we fail to satisfy an asset test because we acquire securities or other property during a quarter (including as a result of an increase in our interest in our Operating Partnership), we may cure this failure by disposing of sufficient nonqualifying assets within 30 days after the close of that quarter. We believe that we have maintained and intend to maintain adequate records of the value of our assets to ensure compliance with the asset tests. If we fail to cure any noncompliance with the asset tests within the 30 day cure period, we would cease to qualify as a REIT unless we are eligible for certain relief provisions discussed below.

Certain relief provisions may be available to us if we discover a failure to satisfy the asset tests described above after the 30-day cure period. Under these provisions, we will be deemed to have met the 5% and 10% asset tests if the value of our nonqualifying assets (1) does not exceed the lesser of (a) 1% of the total value of our assets at the end of the applicable quarter or (b) $10,000,000, and (2) we dispose of the nonqualifying assets or otherwise satisfy such tests within (a) six months after the last day of the quarter in which the failure to satisfy the asset tests is discovered or (b) the period of time prescribed by Treasury Regulations to be issued. For violations of any of the asset tests due to reasonable cause and not due to willful neglect and that are, in the case of the 5% and 10% asset tests, in excess of the *de minimis* exception described above, we may avoid disqualification as a REIT after the 30-day cure period by taking steps including (1) the disposition of sufficient nonqualifying assets, or the taking of other actions, which allow us to meet the asset tests within (a) six months after the last day of the quarter in which the failure to satisfy the asset tests is discovered or (b) the period of time prescribed by Treasury Regulations to be issued, (2) paying a tax equal to the greater of (a) $50,000 or (b) the highest corporate tax rate multiplied by the net income generated by the nonqualifying assets, and (3) disclosing certain information to the IRS.

Although we believe we have satisfied the asset tests described above and plan to take steps to ensure that we satisfy such tests for any quarter with respect to which retesting is to occur, there can be no assurance that we will always be successful, or will not require a reduction in our Operating Partnership's overall interest in an issuer (including in a taxable REIT subsidiary). If we fail to cure any noncompliance with the asset tests in a timely manner, and the relief provisions described above are not available, we would cease to qualify as a REIT.

Annual Distribution Requirements

To maintain our qualification as a REIT, we are required to distribute dividends, other than capital gain dividends, to our stockholders in an amount at least equal to the sum of:

- 90% of our "REIT taxable income"; and
- 90% of our after-tax net income, if any, from foreclosure property; minus
- the excess of the sum of certain items of non-cash income over 5% of our "REIT taxable income."

For these purposes, our "REIT taxable income" is computed without regard to the dividends paid deduction and our net capital gain. In addition, for purposes of this test, non-cash income means income attributable to leveled stepped rents, original issue discount on purchase money debt, cancellation of indebtedness, or a like-kind exchange that is later determined to be taxable.

In addition, if we dispose of any asset we acquired from a corporation which is or has been a C corporation in a transaction in which our basis in the asset is determined by reference to the basis of the asset in the hands of

that C corporation, within the ten-year period following our acquisition of such asset, we would be required to distribute at least 90% of the after-tax gain, if any, we recognized on the disposition of the asset, to the extent that gain does not exceed the excess of (a) the fair market value of the asset over (b) our adjusted basis in the asset, in each case, on the date we acquired the asset.

We generally must pay, or be treated as paying, the distributions described above in the taxable year to which they relate. At our election, a distribution will be treated as paid in a taxable year if it is declared before we timely file our tax return for such year and paid on or before the first regular dividend payment after such declaration, provided such payment is made during the 12-month period following the close of such year. These distributions are treated as received by our stockholders in the year in which paid. This is so even though these distributions relate to the prior year for purposes of the 90% distribution requirement. In order to be taken into account for purposes of our distribution requirement, the amount distributed must not be preferential—*i.e.*, every stockholder of the class of stock to which a distribution is made must be treated the same as every other stockholder of that class, and no class of stock may be treated other than according to its dividend rights as a class. To the extent that we do not distribute all of our net capital gain, or distribute at least 90%, but less than 100%, of our "REIT taxable income," as adjusted, we will be required to pay tax on the undistributed amount at regular corporate tax rates. We believe that we will make timely distributions sufficient to satisfy these annual distribution requirements and to minimize our corporate tax obligations. In this regard, the Partnership Agreement of our Operating Partnership authorizes us, as general partner of our Operating Partnership, to take such steps as may be necessary to cause our Operating Partnership to distribute to its partners an amount sufficient to permit us to meet these distribution requirements and to minimize our corporate tax obligation.

Under some circumstances, we may be able to rectify an inadvertent failure to meet the 90% distribution requirement for a year by paying "deficiency dividends" to our stockholders in a later year, which may be included in our deduction for dividends paid for the earlier year. Thus, we may be able to avoid being taxed on amounts distributed as deficiency dividends, subject to the 4% excise tax described below. However, we will be required to pay interest to the IRS based upon the amount of any deduction claimed for deficiency dividends.

Furthermore, we will be required to pay a 4% excise tax to the extent we fail to distribute during each calendar year at least the sum of 85% of our ordinary income for such year, 95% of our capital gain net income for the year and any undistributed taxable income from prior periods. Any ordinary income and net capital gain on which this excise tax is imposed for any year is treated as an amount distributed during that year for purposes of calculating such tax.

For purposes of the 90% distribution requirement and excise tax described above, dividends declared during the last three months of the taxable year, payable to stockholders of record on a specified date during such period and paid during January of the following year, will be treated as paid by us and received by our stockholders on December 31 of the year in which they are declared.

Like-Kind Exchanges

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

Failure to Qualify

If we discover a violation of a provision of the Code that would result in our failure to qualify as a REIT, certain specified cure provisions may be available to us. Except with respect to violations of the gross income tests and asset tests (for which the cure provisions are described above), and provided the violation is due to

reasonable cause and not due to willful neglect, these cure provisions generally impose a $50,000 penalty for each violation in lieu of a loss of REIT status. If we fail to satisfy the requirements for taxation as a REIT in any taxable year, and the relief provisions do not apply, we will be required to pay tax, including any applicable alternative minimum tax, on our taxable income at regular corporate rates. Distributions to stockholders in any year in which we fail to qualify as a REIT will not be deductible by us, and we will not be required to distribute any amounts to our stockholders. As a result, we anticipate that our failure to qualify as a REIT would reduce the cash available for distribution by us to our stockholders. In addition, if we fail to qualify as a REIT, all distributions to stockholders will be taxable as regular corporate dividends to the extent of our current and accumulated earnings and profits. In such event, corporate distributees may be eligible for the dividends-received deduction. In addition, non-corporate stockholders, including individuals, may be eligible for the preferential tax rates on qualified dividend income. Unless entitled to relief under specific statutory provisions, we will also be ineligible to elect to be treated as a REIT for the four taxable years following the year for which we lost our qualification. It is not possible to state whether in all circumstances we would be entitled to this statutory relief.

Tax Aspects of Our Operating Partnership, the Subsidiary Partnerships and the Limited Liability Companies

General. All of our investments will be held indirectly through our Operating Partnership. In addition, our Operating Partnership may hold certain of its investments indirectly through subsidiary partnerships and limited liability companies which we expect will be treated as partnerships or disregarded entities for federal income tax purposes. In general, entities that are classified as partnerships or disregarded entities for federal income tax purposes are "pass-through" entities that are not required to pay federal income tax. Rather, partners or members of such entities are allocated their shares of the items of income, gain, loss, deduction and credit of the partnership or limited liability company, and are potentially required to pay tax on this income, without regard to whether they receive a distribution from the partnership or limited liability company. We will include in our income our share of these partnership and limited liability company items for purposes of the various gross income tests, the computation of our REIT taxable income, and the REIT distribution requirements. Moreover, for purposes of the asset tests, we will include our pro rata share of assets held by our Operating Partnership, including its share of its subsidiary partnerships and limited liability companies, based on our capital interests in each such entity. See "—Taxation of Our Company."

Entity Classification. Our interests in our Operating Partnership and any subsidiary partnerships and limited liability companies involve special tax considerations, including the possibility that the IRS might challenge the status of these entities as partnerships (or disregarded entities). For example, an entity that would otherwise be classified as a partnership for federal income tax purposes may nonetheless be taxable as a corporation if it is a "publicly traded partnership" and certain other requirements are met. A partnership or limited liability company would be treated as a publicly traded partnership if its interests are traded on an established securities market or are readily tradable on a secondary market or a substantial equivalent thereof, within the meaning of applicable Treasury Regulations. Interests in a partnership are not treated as readily tradable on a secondary market, or the substantial equivalent thereof, if all interests in the partnership were issued in one or more transactions that were not required to be registered under the Securities Act, and the partnership does not have more than 100 partners at any time during the taxable year of the partnership, taking into account certain ownership attribution and anti-avoidance rules (the "100 Partner Safe Harbor"). Our Operating Partnership may not qualify for the 100 Partner Safe Harbor. In the event that the 100 Partner Safe Harbor or certain other safe harbor provisions of applicable Treasury Regulations are not available, our Operating Partnership could be classified as a publicly traded partnership.

If our Operating Partnership does not qualify for the 100 Partner Safe Harbor, interests in our Operating Partnership may nonetheless be viewed as not readily tradable on a secondary market or the substantial equivalent thereof if the sum of the percentage interests in capital or profits of our Operating Partnership transferred during any taxable year of our Operating Partnership does not exceed 2% of the total interests in our Operating Partnership's capital or profits, subject to certain exceptions. For purpose of this 2% trading restriction, our interests in our Operating Partnership are excluded from the determination of the percentage interests in capital or profits of our

Operating Partnership. In addition, this 2% trading restriction does not apply to transfers by a limited partner in one or more transactions during any 30-day period representing in the aggregate more than 2% of the total interests in our Operating Partnership's capital or profits. We, as general partner of our Operating Partnership, have the authority to take any steps we determine necessary or appropriate to prevent any trading of interests in our Operating Partnership that would cause our Operating Partnership to become a publicly traded partnership, including any steps necessary to ensure compliance with this 2% trading restriction.

We believe our Operating Partnership and each of our other partnerships and limited liability companies will be classified as partnerships or disregarded entities for federal income tax purposes, and we do not anticipate that our Operating Partnership or any subsidiary partnership or limited liability company will be treated as a publicly traded partnership that is taxable as a corporation.

If our Operating Partnership or any of our other partnerships or limited liability companies were to be treated as a publicly traded partnership, it would be taxable as a corporation unless it qualified for the statutory "90% qualifying income exception." Under that exception, a publicly traded partnership is not subject to corporate-level tax if 90% or more of its gross income consists of dividends, interest, "rents from real property" (as that term is defined for purposes of the rules applicable to REITs, with certain modifications), gain from the sale or other disposition of real property, and certain other types of qualifying income. However, if any such entity did not qualify for this exception or was otherwise taxable as a corporation, it would be required to pay an entity-level tax on its income. In this situation, the character of our assets and items of gross income would change and could prevent us from satisfying the REIT asset tests and possibly the REIT income tests. See "—Taxation of Our Company—Asset Tests" and "—Income Tests." This, in turn, could prevent us from qualifying as a REIT. See "—Failure to Qualify" for a discussion of the effect of our failure to meet these tests. In addition, a change in the tax status of our Operating Partnership or a subsidiary partnership or limited liability company might be treated as a taxable event. If so, we might incur a tax liability without any related cash payment.

Allocations of Income, Gain, Loss and Deduction. The Partnership Agreement generally provides that allocations of net income to holders of common units generally will be made proportionately to all such holders in respect of such units. Certain limited partners will have the opportunity to guarantee debt of our Operating Partnership, indirectly through an agreement to make capital contributions to our Operating Partnership under limited circumstances. As a result of these guaranties or contribution agreements, and notwithstanding the foregoing discussion of allocations of income and loss of our Operating Partnership to holders of units, such limited partners could under limited circumstances be allocated a disproportionate amount of net loss upon a liquidation of our Operating Partnership, which net loss would have otherwise been allocable to us.

If an allocation of partnership income or loss does not comply with the requirements of Section 704(b) of the Code and the Treasury Regulations thereunder, the item subject to the allocation will be reallocated in accordance with the partners' interests in the partnership. This reallocation will be determined by taking into account all of the facts and circumstances relating to the economic arrangement of the partners with respect to such item. Our Operating Partnership's allocations of taxable income and loss are intended to comply with the requirements of Section 704(b) of the Code and the Treasury Regulations thereunder.

Tax Allocations With Respect to the Properties. Under Section 704(c) of the Code, income, gain, loss and deduction attributable to appreciated or depreciated property that is contributed to a partnership in exchange for an interest in the partnership, must be allocated in a manner so that the contributing partner is charged with the unrealized gain or benefits from the unrealized loss associated with the property at the time of the contribution. The amount of the unrealized gain or unrealized loss generally is equal to the difference between the fair market value or book value and the adjusted tax basis of the contributed property at the time of contribution, as adjusted from time to time. These allocations are solely for federal income tax purposes and do not affect the book capital accounts or other economic or legal arrangements among the partners.

Our Operating Partnership may, from time to time, acquire interests in property in exchange for interests in our Operating Partnership. In that case, the tax basis of these property interests generally carries over to the Operating Partnership, notwithstanding their different book (*i.e.*, fair market) value (this difference is referred to as a book-tax difference). The Partnership Agreement requires that income and loss allocations with respect to these properties be made in a manner consistent with Section 704(c) of the Code. Treasury Regulations issued under Section 704(c) of the Code provide partnerships with a choice of several methods of accounting for book-tax differences. Depending on the method we choose in connection with any particular contribution, the carryover basis of each of the contributed interests in the properties in the hands of our Operating Partnership (1) could cause us to be allocated lower amounts of depreciation deductions for tax purposes than would be allocated to us if any of the contributed properties were to have a tax basis equal to its respective fair market value at the time of the contribution and (2) could cause us to be allocated taxable gain in the event of a sale of such contributed interests or properties in excess of the economic or book income allocated to us as a result of such sale, with a corresponding benefit to the other partners in our Operating Partnership. An allocation described in clause (2) above might cause us or the other partners to recognize taxable income in excess of cash proceeds in the event of a sale or other disposition of property, which might adversely affect our ability to comply with the REIT distribution requirements. See "—General—Requirements for Qualification as a REIT" and "—Annual Distribution Requirements."

Any property acquired by our Operating Partnership in a taxable transaction will initially have a tax basis equal to its fair market value, and Section 704(c) of the Code generally will not apply.

Federal Income Tax Considerations for Holders of Our Common Stock

The following summary describes the principal federal income tax consequences to you of purchasing, owning and disposing of our common stock. This summary assumes you hold shares of our common stock as a "capital asset" (generally, property held for investment within the meaning of Section 1221 of the Code). It does not address all the tax consequences that may be relevant to you in light of your particular circumstances. In addition, this discussion does not address the tax consequences relevant to persons who receive special treatment under the federal income tax law, except where specifically noted. Holders receiving special treatment include, without limitation:

- financial institutions, banks and thrifts;
- insurance companies;
- tax-exempt organizations;
- "S" corporations;
- traders in securities that elect to mark to market;
- partnerships, pass-through entities and persons holding our stock through a partnership or other pass-through entity;
- stockholders subject to the alternative minimum tax;
- regulated investment companies and REITs;
- foreign governments and international organizations;
- broker-dealers or dealers in securities or currencies;
- U.S. expatriates;
- persons holding our stock as part of a hedge, straddle, conversion, integrated or other risk reduction or constructive sale transaction; or
- U.S. stockholders (as defined below) whose functional currency is not the U.S. dollar.

If you are considering purchasing our common stock, you should consult your tax advisors concerning the application of federal income tax laws to your particular situation as well as any consequences of the purchase, ownership and disposition of our common stock arising under the laws of any state, local or non-U.S. taxing jurisdiction.

When we use the term "U.S. stockholder," we mean a holder of shares of our common stock who, for federal income tax purposes, is:

- an individual who 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 or of any state thereof or in the District of Columbia;
- an estate the income of which is subject to federal income taxation regardless of its source; or
- a trust that (1) is subject to the primary supervision of a U.S. court and the control of one or more U.S. persons or (2) has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. person.

If you hold shares of our common stock and are not a U.S. stockholder, you are a "non-U.S. stockholder."

If a partnership or other entity treated as a partnership for federal income tax purposes holds shares of our common stock, the tax treatment of a partner generally will depend on the status of the partner and on the activities of the partnership. Partners of partnerships holding shares of our common stock are encouraged to consult their tax advisors.

Tax Consequences Upon Conversion of Series B Preferred Stock Into Common Stock

Generally, except with respect to cash received in lieu of fractional shares, no gain or loss is recognized upon the conversion of shares of Series B Preferred Stock into shares of common stock. The tax basis of a holder of shares of Series B Preferred Stock (a "Preferred Holder") in the shares of common stock received is equal to that holder's tax basis in the shares of Series B Preferred Stock surrendered in the conversion, reduced by any basis attributable to fractional shares deemed received, and the holding period for the shares of common stock includes the Preferred Holder's holding period for the shares of Series B Preferred Stock. Based on the IRS's present advance ruling policy, cash received, in lieu of a fractional share of common stock upon conversion of shares of Series B Preferred Stock should be treated as a payment in redemption of the fractional share interest in those shares of common stock.

Deemed Dividends on Preferred Stock

The conversion price of the shares of Series B Preferred Stock may be adjusted if we make distributions of stock, cash or other property to our stockholders in some circumstances. While we do not presently contemplate making distributions in any of these circumstances, if we make a distribution of cash or property resulting in an adjustment to the conversion price, a Preferred Holder may be viewed as receiving a "deemed distribution" which is taxable as a dividend under Sections 301 and 305 of the Code.

Taxation of Taxable U.S. Stockholders

Distributions Generally. Distributions out of our current or accumulated earnings and profits will be treated as dividends and, other than with respect to capital gain dividends and certain amounts which have previously been subject to corporate level tax discussed below, will be taxable to our taxable U.S. stockholders as ordinary income when actually or constructively received. See "—Tax Rates" below. As long as we qualify as a REIT, these distributions will not be eligible for the dividends-received deduction in the case of U.S. stockholders that

are corporations or, except to the extent provided in "—Tax Rates" below, the preferential rates on qualified dividend income applicable to non-corporate U.S. stockholders, including individuals.

To the extent that we make distributions on our common stock in excess of our current and accumulated earnings and profits, these distributions will be treated first as a tax-free return of capital to a U.S. stockholder. This treatment will reduce the U.S. stockholder's adjusted tax basis in such shares of stock by the amount of the distribution, but not below zero. Distributions in excess of our current and accumulated earnings and profits and in excess of a U.S. stockholder's adjusted tax basis in its shares will be taxable as capital gain. Such gain will be taxable as long-term capital gain if the shares have been held for more than one year. Dividends we declare in October, November, or December of any year and which are payable to a stockholder of record on a specified date in any of these months will be treated as both paid by us and received by the stockholder on December 31 of that year, provided we actually pay the dividend on or before January 31 of the following year. U.S. stockholders may not include in their own income tax returns any of our net operating losses or capital losses.

Certain stock dividends, including dividends partially paid in our stock and partially paid in cash that comply with IRS Revenue Procedure 2010-12, will be taxable to the recipient U.S. stockholder to the same extent as if paid in cash.

Capital Gain Dividends. Dividends that we properly designate as capital gain dividends will be taxable to our U.S. stockholders as a gain from the sale or disposition of a capital asset held for more than one year, to the extent that such gain does not exceed our actual net capital gain for the taxable year. U.S. stockholders that are corporations may, however, be required to treat up to 20% of certain capital gain dividends as ordinary income.

Retention of Net Capital Gains. We may elect to retain, rather than distribute as a capital gain dividend, all or a portion of our net capital gains. If we make this election, we would pay tax on our retained net capital gains. In addition, to the extent we so elect, our earnings and profits (determined for federal income tax purposes) would be adjusted accordingly, and a U.S. stockholder generally would:

- include its pro rata share of our undistributed net capital gains in computing its long-term capital gains in its return for its taxable year in which the last day of our taxable year falls, subject to certain limitations as to the amount that is includable;
- be deemed to have paid its share of the capital gains tax imposed on us on the designated amounts included in the U.S. stockholder's income as long-term capital gain;
- receive a credit or refund for the amount of tax deemed paid by it;
- increase the adjusted basis of its stock by the difference between the amount of includable gains and the tax deemed to have been paid by it; and
- in the case of a U.S. stockholder that is a corporation, appropriately adjust its earnings and profits for the retained capital gains in accordance with Treasury Regulations to be promulgated by the IRS.

Passive Activity Losses and Investment Interest Limitations. Distributions we make and gain arising from the sale or exchange by a U.S. stockholder of our shares will not be treated as passive activity income. As a result, U.S. stockholders generally will not be able to apply any "passive losses" against this income or gain. A U.S. stockholder may elect to treat capital gain dividends, capital gains from the disposition of our stock and income designated as qualified dividend income, described in "—Tax Rates" below, as investment income for purposes of computing the investment interest limitation, but in such case, the stockholder will be taxed at ordinary income rates on such amount. Other distributions made by us, to the extent they do not constitute a return of capital, generally will be treated as investment income for purposes of computing the investment interest limitation.

Dispositions of Our Common Stock. If a U.S. stockholder sells or disposes of shares of common stock, it will recognize gain or loss for federal income tax purposes in an amount equal to the difference between the

amount of cash and the fair market value of any property received on the sale or other disposition and the holder's adjusted basis in the shares. This gain or loss, except as provided below, will be a long-term capital gain or loss if the holder has held such common stock for more than one year. However, if a U.S. stockholder recognizes a loss upon the sale or other disposition of common stock that it has held for six months or less, after applying certain holding period rules, the loss recognized will be treated as a long-term capital loss to the extent the U.S. stockholder received distributions from us which were required to be treated as long-term capital gains.

Tax Rates. The maximum tax rate for non-corporate taxpayers for (1) capital gains, including certain "capital gain dividends," is 20% (although depending on the characteristics of the assets which produced these gains and on designations which we may make, certain capital gain dividends may be taxed at a 25% rate) and (2) "qualified dividend income" is 20%. However, dividends payable by REITs are not eligible for the 20% tax rate on qualified dividend income, except to the extent that certain holding requirements have been met and the REIT's dividends are attributable to dividends received from taxable corporations (such as its taxable REIT subsidiaries) or to income that was subject to tax at the corporate/REIT level (for example, if it distributed taxable income that it retained and paid tax on in the prior taxable year) or to dividends properly designated by the REIT as "capital gain dividends."

Medicare Tax on Unearned Income. Newly enacted legislation requires certain U.S. stockholders that are individuals, estates or trusts to pay an additional 3.8% tax on, among other things, dividends on and capital gains from the sale or other disposition of stock for taxable years beginning after December 31, 2012. U.S. stockholders should consult their tax advisors regarding the effect, if any, of this legislation on their ownership and disposition of our common stock.

New Legislation Relating to Foreign Accounts. Under newly enacted legislation, certain payments made after June 30, 2014 to "foreign financial institutions" or "nonfinancial foreign entities" in respect of accounts of U.S. stockholders at such financial institutions or nonfinancial foreign entities may be subject to withholding at a rate of 30%. U.S. stockholders should consult their tax advisors regarding the effect, if any, of this new legislation on their ownership and disposition of our common stock. See "—Taxation of Non-U.S. Stockholders—New Legislation Relating to Foreign Accounts."

Information Reporting and Backup Withholding. We are required to report to our U.S. stockholders and the IRS the amount of dividends paid during each calendar year, and the amount of any tax withheld. Under the backup withholding rules, a stockholder may be subject to backup withholding with respect to dividends paid unless the holder comes within certain exempt categories and, when required, demonstrates this fact, or provides a taxpayer identification number, certifies as to no loss of exemption from backup withholding, and otherwise complies with applicable requirements of the backup withholding rules. A U.S. stockholder that does not provide us with its correct taxpayer identification number may also be subject to penalties imposed by the IRS. Backup withholding is not an additional tax. Any amount paid as backup withholding will be creditable against the stockholder's federal income tax liability, provided the required information is timely furnished to the IRS. In addition, we may be required to withhold a portion of capital gain distributions to any stockholders who fail to certify their non-foreign status. See "—Taxation of Non-U.S. Stockholders."

Taxation of Tax-Exempt Stockholders

Dividend income from us and gain arising upon a sale of our shares generally should not be unrelated business taxable income ("UBTI"), to a tax-exempt stockholder, except as described below. This income or gain will be UBTI, however, if a tax-exempt stockholder holds its shares as "debt-financed property" within the meaning of the Code or if the shares are used in a trade or business of the tax-exempt stockholder. Generally, "debt-financed property" is property the acquisition or holding of which was financed through a borrowing by the tax-exempt stockholder.

For tax-exempt stockholders that are social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts, or qualified group legal services plans exempt from federal income taxation under Sections 501(c)(7), (c)(9), (c)(17) or (c)(20) of the Code, respectively, income from an investment in our shares will constitute 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. These prospective investors should consult their tax advisors concerning these "set aside" and reserve requirements.

Notwithstanding the above, however, a portion of the dividends paid by a "pension-held REIT" may be treated as unrelated business taxable income as to certain trusts that hold more than 10%, by value, of the interests in the REIT. A REIT will not be a "pension-held REIT" if it is able to satisfy the "not closely held" requirement without relying on the "look-through" exception with respect to certain trusts or if such REIT is not "predominantly held" by "qualified trusts." As a result of restrictions on ownership and transfer of our stock contained in our charter, we do not expect to be classified as a "pension-held REIT," and as a result, the tax treatment described above should be inapplicable to our stockholders. However, because our stock will be publicly traded, we cannot guarantee that this will always be the case.

Taxation of Non-U.S. Stockholders

The following discussion addresses the rules governing federal income taxation of the purchase, ownership and disposition of our common stock by non-U.S. stockholders. These rules are complex, and no attempt is made herein to provide more than a brief summary of such rules. Accordingly, the discussion does not address all aspects of federal income taxation and does not address state, local or non-U.S. tax consequences that may be relevant to a non-U.S. stockholder in light of its particular circumstances. We urge non-U.S. stockholders to consult their tax advisors to determine the impact of federal, state, local and non-U.S. income tax laws on the purchase, ownership and disposition of shares of our common stock, including any reporting requirements.

Distributions Generally. Distributions (including any taxable stock dividends) that are neither attributable to gains from sales or exchanges by us of U.S. real property interests nor designated by us as capital gain dividends (except as described below) will be treated as dividends of ordinary income to the extent that they are made out of our current or accumulated earnings and profits. Such distributions ordinarily will be subject to withholding of federal income tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty, unless the distributions are treated as effectively connected with the conduct by the non-U.S. stockholder of a U.S. trade or business. Under certain treaties, however, lower withholding rates generally applicable to dividends do not apply to dividends from a REIT. Certain certification and disclosure requirements must be satisfied to be exempt from withholding under the effectively connected income exemption. Dividends that are treated as effectively connected with a U.S. trade or business will generally not be subject to withholding but will be subject to federal income tax on a net basis at graduated rates, in the same manner as dividends paid to U.S. stockholders are subject to federal income tax. Any such dividends received by a non-U.S. stockholder that is a corporation may also be subject to an additional branch profits tax at a 30% rate (applicable after deducting federal income taxes paid on such effectively connected income) or such lower rate as may be specified by an applicable income tax treaty.

Except as otherwise provided below, we expect to withhold federal income tax at the rate of 30% on any distributions made to a non-U.S. stockholder unless:

(1) a lower treaty rate applies and the non-U.S. stockholder files with us an IRS Form W-8BEN evidencing eligibility for that reduced treaty rate; or

(2) the non-U.S. stockholder files an IRS Form W-8ECI with us claiming that the distribution is income effectively connected with the non-U.S. stockholder's trade or business.

Distributions in excess of our current and accumulated earnings and profits will not be taxable to a non-U.S. stockholder to the extent that such distributions do not exceed the adjusted basis of the stockholder's common

stock, but rather will reduce the adjusted basis of such stock. To the extent that such distributions exceed the non-U.S. stockholder's adjusted basis in such common stock, they will give rise to gain from the sale or exchange of such stock, the tax treatment of which is described below. For withholding purposes, we expect to treat all distributions as made out of our current or accumulated earnings and profits. However, amounts withheld may be refundable if it is subsequently determined that the distribution was, in fact, in excess of our current and accumulated earnings and profits, provided that certain conditions are met.

Capital Gain Dividends and Distributions Attributable to a Sale or Exchange of U.S. Real Property Interests. Distributions to a non-U.S. stockholder that we properly designate as capital gain dividends, other than those arising from the disposition of a U.S. real property interest, generally should not be subject to federal income taxation, unless:

(1) the investment in our stock is treated as effectively connected with the non-U.S. stockholder's U.S. trade or business, in which case the non-U.S. stockholder will be subject to the same treatment as U.S. stockholders with respect to such gain, except that a non-U.S. stockholder that is a non-U.S. corporation may also be subject to a branch profits tax of up to 30%, as discussed above; or

(2) the non-U.S. stockholder is a nonresident alien individual who is present in the United States for 183 days or more during the taxable year and certain other conditions are met, in which case the nonresident alien individual will be subject to a 30% tax on the individual's capital gains.

Pursuant to the Foreign Investment in Real Property Tax Act, which is referred to as "FIRPTA," distributions to a non-U.S. stockholder that are attributable to gain from sales or exchanges by us of "U.S. real property interests," or USRPI, whether or not designated as capital gain dividends, will cause the non-U.S. stockholder to be treated as recognizing such gain as income effectively connected with a U.S. trade or business. Non-U.S. stockholders would generally be taxed at the same rates applicable to U.S. stockholders, subject to any applicable alternative minimum tax. We also will be required to withhold and to remit to the IRS 35% (or 20% to the extent provided in Treasury Regulations) of any distribution to non-U.S. stockholders that is designated as a capital gain dividend or, if greater, 35% of any distribution to non-U.S. stockholders that could have been designated as a capital gain dividend. The amount withheld is creditable against the non-U.S. stockholder's federal income tax liability. However, any distribution with respect to any class of stock that is "regularly traded" on an established securities market located in the United States is not subject to FIRPTA, and therefore, not subject to the 35% U.S. withholding tax described above, if the non-U.S. stockholder did not own more than 5% of such class of stock at any time during the one-year period ending on the date of the distribution. Instead, such distributions will generally be treated as ordinary dividend distributions and subject to withholding in the manner described above with respect to ordinary dividends.

Retention of Net Capital Gains. Although the law is not clear on the matter, it appears that amounts designated by us as retained net capital gains in respect of the stock held by stockholders generally should be treated with respect to non-U.S. stockholders in the same manner as actual distributions of capital gain dividends. Under that approach, the non-U.S. stockholders would be able to offset as a credit against their federal income tax liability resulting from their proportionate share of the tax paid by us on such retained net capital gains and to receive from the IRS a refund to the extent their proportionate share of such tax paid by us exceeds their actual federal income tax liability. If we were to designate any portion of our net capital gain as retained net capital gain, a non-U.S. stockholder should consult its tax advisor regarding the taxation of such retained net capital gain.

Sale of Our Common Stock. Gain recognized by a non-U.S. stockholder upon the sale, exchange or other taxable disposition of our common stock generally will not be subject to federal income taxation unless such stock constitutes a USRPI. In general, stock of a domestic corporation that constitutes a "U.S. real property holding corporation," or USRPHC, will constitute a USRPI. We expect that we will be a USRPHC. Our common stock will not, however, constitute a USRPI so long as we are a "domestically controlled qualified investment entity." A "domestically controlled qualified investment entity" includes a REIT in which at all times during a

specified testing period less than 50% in value of its stock is held directly or indirectly by non-U.S. stockholders. We believe, but cannot guarantee, that we are a "domestically controlled qualified investment entity." Because our common stock will be publicly traded, no assurance can be given that we will continue to be a "domestically controlled qualified investment entity."

Notwithstanding the foregoing, gain from the sale, exchange or other taxable disposition of our common stock not otherwise subject to FIRPTA will be taxable to a non-U.S. stockholder if either (a) the investment in our common stock is treated as effectively connected with the non-U.S. stockholder's U.S. trade or business or (b) the non-U.S. stockholder is a nonresident alien individual who is present in the United States for 183 days or more during the taxable year and certain other conditions are met. In addition, even if we are a domestically controlled qualified investment entity, upon disposition of our stock (subject to the 5% exception applicable to "regularly traded" stock described below), a non-U.S. stockholder may be treated as having gain from the sale or other taxable disposition of a USRPI if the non-U.S. stockholder (1) disposes of our stock within a 30-day period preceding the ex-dividend date of a distribution, any portion of which, but for the disposition, would have been treated as gain from the sale or exchange of a USRPI and (2) acquires, or enters into a contract or option to acquire, or is deemed to acquire, other shares of that stock during the 61-day period beginning with the first day of the 30-day period described in clause (1).

Even if we do not qualify as a "domestically controlled qualified investment entity" at the time a non-U.S. stockholder sells our stock, gain arising from the sale or other taxable disposition by a non-U.S. stockholder of such stock would not be subject to federal income taxation under FIRPTA as a sale of a USRPI if:

- such class of stock is "regularly traded," as defined by applicable Treasury Regulations, on an established securities market such as Nasdaq; and
- such non-U.S. stockholder owned, actually and constructively, 5% or less of such class of our stock throughout the five-year period ending on the date of the sale or exchange.

If gain on the sale, exchange or other taxable disposition of our common stock were subject to taxation under FIRPTA, the non-U.S. stockholder would be subject to regular federal income tax with respect to such gain in the same manner as a taxable U.S. stockholder (subject to any applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals). In addition, if the sale, exchange or other taxable disposition of our common stock were subject to taxation under FIRPTA, and if shares of our common stock were not "regularly traded" on an established securities market, the purchaser of such common stock would generally be required to withhold and remit to the IRS 10% of the purchase price.

Information Reporting and Backup Withholding Tax. Generally, we must report annually to the IRS the amount of dividends paid to a non-U.S. stockholder, such holder's name and address, and the amount of tax withheld, if any. A similar report is sent to the non-U.S. stockholder. Pursuant to tax treaties or other agreements, the IRS may make its reports available to tax authorities in the non-U.S. stockholder's country of residence.

Payments of dividends or of proceeds from the disposition of stock made to a non-U.S. stockholder may be subject to information reporting and backup withholding unless such holder establishes an exemption, for example, by properly certifying its non-U.S. status on an IRS Form W-8BEN or another appropriate version of IRS Form W-8. Notwithstanding the foregoing, backup withholding and information reporting may apply if either we have or our paying agent has actual knowledge, or reason to know, that a non-U.S. stockholder is a U.S. person.

Backup withholding is not an additional tax. Rather, the federal income tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund or credit may be obtained, provided that the required information is timely furnished to the IRS.

New Legislation Relating to Foreign Accounts. Newly enacted legislation may impose withholding taxes on certain types of payments made to "foreign financial institutions" and certain other non-U.S. entities. Under this legislation, the failure to comply with additional certification, information reporting and other specified requirements could result in withholding tax being imposed on payments of dividends and sales proceeds to U.S. stockholders that own the shares through foreign accounts or foreign intermediaries and certain non-U.S. stockholders. The legislation imposes a 30% withholding tax on dividends on, and gross proceeds from the sale or other disposition of, our stock paid to a foreign financial institution or to a nonfinancial foreign entity, unless (1) the foreign financial institution undertakes certain diligence and reporting obligations or (2) the non-financial foreign entity either certifies it does not have any substantial U.S. owners or furnishes identifying information regarding each substantial U.S. owner. In addition, if the payee is a foreign financial institution, it generally must enter into an agreement with the U.S. Treasury that requires, among other things, that it undertake to identify accounts held by certain U.S. persons or U.S.-owned foreign entities, annually report certain information about such accounts, and withhold 30% on payments to certain other account holders. The legislation applies to payments made after June 30, 2014. Prospective investors should consult their tax advisors regarding this legislation.

Other Tax Consequences

State, local and non-U.S. income tax laws may differ substantially from the corresponding federal income tax laws, and this discussion does not purport to describe any aspect of the tax laws of any state, local or non-U.S. jurisdiction. You should consult your tax advisor regarding the effect of state, local and non-U.S. tax laws with respect to our tax treatment as a REIT and on an investment in our common stock.

ERISA CONSIDERATIONS

General

The following is a summary of certain considerations arising under ERISA, and the prohibited transaction provisions of Section 4975 of the Code that may be relevant to a prospective purchaser that is an employee benefit plan subject to ERISA. The following summary may also be relevant to a prospective purchaser that is not an employee benefit plan subject to ERISA, but is a tax-qualified retirement plan or an individual retirement account, individual retirement annuity, medical savings account or education individual retirement account, which we refer to collectively as an "IRA." This discussion does not address all aspects of ERISA or Section 4975 of the Code or, to the extent not preempted, state law that may be relevant to particular employee benefit plan stockholders in light of their particular circumstances, including plans subject to Title I of ERISA, other employee benefit plans and IRAs subject to the prohibited transaction provisions of Section 4975 of the Code, and governmental, church, foreign and other plans that are exempt from ERISA and Section 4975 of the Code but that may be subject to other federal, state, local or foreign law requirements.

A fiduciary making the decision to invest in shares of our common stock on behalf of a prospective purchaser which is an ERISA plan, a tax qualified retirement plan, an IRA or other employee benefit plan is advised to consult its legal advisor regarding the specific considerations arising under ERISA, Section 4975 of the Code, and, to the extent not preempted, state law with respect to the purchase, ownership or sale of shares of our common stock by the plan or IRA.

Plans should also consider the entire discussion under the heading "Federal Income Tax Considerations," as material contained in that section is relevant to any decision by an employee benefit plan, tax-qualified retirement plan or IRA to purchase our common stock.

Employee Benefit Plans, Tax-Qualified Retirement Plans and IRAs

Each fiduciary of an "ERISA plan," which is an employee benefit plan subject to Title I of ERISA, should carefully consider whether an investment in shares of our common stock is consistent with its fiduciary responsibilities under ERISA. In particular, the fiduciary requirements of Part 4 of Title I of ERISA require that:

- an ERISA plan make investments that are prudent and in the best interests of the ERISA plan, its participants and beneficiaries;
- an ERISA plan make investments that are diversified in order to reduce the risk of large losses, unless it is clearly prudent for the ERISA plan not to do so;
- an ERISA plan's investments are authorized under ERISA and the terms of the governing documents of the ERISA plan; and
- the fiduciary not cause the ERISA plan to enter into transactions prohibited under Section 406 of ERISA (and certain corresponding provisions of the Code).

In determining whether an investment in shares of our common stock is prudent for ERISA purposes, the appropriate fiduciary of an ERISA plan should consider all of the facts and circumstances, including whether the investment is reasonably designed, as a part of the ERISA plan's portfolio for which the fiduciary has investment responsibility, to meet the objectives of the ERISA plan, taking into consideration the risk of loss and opportunity for gain or other return from the investment, the diversification, cash flow and funding requirements of the ERISA plan, and the liquidity and current return of the ERISA plan's portfolio. A fiduciary should also take into account the nature of our business, the length of our operating history and other matters described in the section entitled "Risk Factors." Specifically, before investing in shares of our common stock, any fiduciary should, after considering the employee plan's or IRA's particular circumstances, determine whether the investment is appropriate under the fiduciary standards of ERISA or other applicable law including standards with respect to prudence, diversification and delegation of control and the prohibited transaction provisions of ERISA and the Code.

Our Status Under ERISA

In some circumstances where an ERISA plan holds an interest in an entity, the assets of the entity are deemed to be ERISA plan assets. This is known as the "look-through rule." Under those circumstances, the obligations and other responsibilities of plan sponsors, plan fiduciaries and plan administrators, and of parties in interest and disqualified persons, under Parts 1 and 4 of Subtitle B of Title I of ERISA and Section 4975 of the Code, as applicable, may be expanded, and there may be an increase in their liability under these and other provisions of ERISA and the Code (except to the extent (if any) that a favorable statutory or administrative exemption or exception applies). For example, a prohibited transaction may occur if our assets are deemed to be assets of investing ERISA plans and persons who have certain specified relationships to an ERISA plan ("parties in interest" within the meaning of ERISA, and "disqualified persons" within the meaning of the Code) deal with these assets. Further, if our assets are deemed to be assets of investing ERISA plans, any person that exercises authority or control with respect to the management or disposition of the assets is an ERISA plan fiduciary.

Section 3(42) of ERISA and United States Department of Labor has issued regulations that outline the circumstances under which an ERISA plan's interest in an entity will be subject to the look-through rule. These rules apply to the purchase by an ERISA plan of an "equity interest" in an entity, such as stock of a REIT. However, the Department of Labor regulations provide an exception to the look-through rule for equity interests that are "publicly offered securities."

Under the Department of Labor regulations, a "publicly offered security" is a security that is:

- freely transferable;
- part of a class of securities that is widely held; and
- either part of a class of securities that is registered under section 12(b) or 12(g) of the Exchange Act or sold to an ERISA plan as part of an offering of securities to the public pursuant to an effective registration statement under the Securities Act, and the class of securities of which this security is a part is registered under the Exchange Act within 120 days, or longer if allowed by the SEC, after the end of the fiscal year of the issuer during which this offering of these securities to the public occurred.

Whether a security is considered "freely transferable" depends on the facts and circumstances of each case. Under the Department of Labor regulations, if the security is part of an offering in which the minimum investment is $10,000 or less, then any restriction on or prohibition against any transfer or assignment of the security for the purposes of preventing a termination or reclassification of the entity for federal or state tax purposes will not ordinarily prevent the security from being considered freely transferable. Additionally, limitations or restrictions on the transfer or assignment of a security that are created or imposed by persons other than the issuer of the security or persons acting for or on behalf of the issuer will ordinarily not prevent the security from being considered freely transferable.

A class of securities is considered "widely held" if it is a class of securities that is owned by 100 or more investors independent of the issuer and of one another. A security will not fail to be "widely held" because the number of independent investors falls below 100 subsequent to the initial public offering as a result of events beyond the issuer's control.

The shares of our common stock offered in this prospectus may meet the criteria of the publicly offered securities exception to the look-through rule. First, the common stock could be considered to be freely transferable, as the minimum investment will be less than $10,000 and the only restrictions upon its transfer are those generally permitted under the Department of Labor regulations, those required under federal tax laws to maintain our status as a REIT, resale restrictions under applicable federal securities laws with respect to securities not purchased pursuant to this prospectus and those owned by our officers, directors and other affiliates, and voluntary restrictions agreed to by the selling stockholder regarding volume limitations.

Second, we believe (although we cannot confirm) that our common stock is held by 100 or more investors, and we believe (although we cannot confirm) that at least 100 or more of these investors are independent of us and of one another.

Third, the shares of our common stock will be part of an offering of securities to the public pursuant to an effective registration statement under the Securities Act and the common stock is registered under the Exchange Act.

In addition, the Department of Labor regulations provide exceptions to the look-through rule for equity interests in some types of entities, including any entity that qualifies as either a "real estate operating company" or a "venture capital operating company."

Under the Department of Labor regulations, a "real estate operating company" is defined as an entity which:

- on testing dates has at least 50% of its assets, other than short-term investments pending long-term commitment or distribution to investors, valued at cost invested in real estate which is managed or developed and with respect to which the entity has the right to substantially participate directly in the management or development activities; and
- in the ordinary course of its business, is engaged directly in real estate management or development activities. Rationale for change is that ordinary course requirement is during a 12-month measurement period, not on testing dates.

According to those same regulations, a "venture capital operating company" is defined as an entity which:

- on testing dates has at least 50% of its assets, other than short-term investments pending long-term commitment or distribution to investors, valued at cost invested in one or more operating companies with respect to which the entity has management rights; and
- that, in the ordinary course of its business, actually exercises its management rights with respect to one or more of the operating companies in which it invests.

We have not endeavored to determine whether we will satisfy the "real estate operating company" or "venture capital operating company" exception.

Prior to making an investment in the shares offered in this prospectus, prospective employee benefit plan investors (whether or not subject to ERISA or section 4975 of the Code) should consult with their legal and other advisors concerning the impact of ERISA and the Code (and, particularly in the case of non-ERISA plans and arrangements, any additional state, local and foreign law considerations), as applicable, and the potential consequences in their specific circumstances of an investment in such shares.

UNDERWRITING

Subject to the terms and conditions set forth in an underwriting agreement among us, our Operating Partnership and the underwriters, we have agreed to sell to the underwriters, and each of the underwriters has agreed, severally and not jointly, to purchase from us, the number of Units set forth opposite its name below. Maxim Group LLC (Maxim), the lead managing underwriter and bookrunner, is acting as the representative of each of the underwriters named below. The underwriters and the representative are collectively referred to as the "underwriters" and the "representative," respectively.

Underwriter	Number of Units
Maxim Group LLC	
Newbridge Securities Corporation	
Total	

The underwriters have agreed to purchase all of the Units sold under the underwriting agreement (other than those covered by the overallotment option described below) if any of these securities are purchased. The underwriting agreement provides that the obligations of the underwriters to pay for and accept delivery of the Units are subject to the review of certain legal matters by their counsel and certain other conditions such as confirmation by us of the accuracy of representations and warranties about our financial condition and operation. If an underwriter defaults, the underwriting agreement provides that the purchase commitments of the non-defaulting underwriters may be increased or the underwriting agreement may be terminated.

The Units should be ready for delivery on or about , 2014 against payment in immediately available funds. The underwriters may reject all or part of any order.

Commissions and Discounts

The following table shows the per Unit and total underwriting discount that we will pay to the underwriters, and the proceeds, before expenses, to us. The information assumes either no exercise or full exercise by the underwriters of their overallotment option.

	Per Unit	Without Option	With Option
Public Offering Price			
Underwriting Discount paid by us			
Proceeds, before expenses, to us			

Pricing of Securities

The representative has advised us that the underwriters propose initially to offer the Units to the public at the public offering price set forth on the cover page of this prospectus. In addition, the representative may offer some of the Units to other securities dealers at such price less a concession not in excess of $ per Unit. The underwriters may allow, and the dealers may re-allow, a discount not in excess of $ per Unit to other dealers. After the Units are released for sale to the public, the representative may change the offering price and other selling terms at various times.

The offering price will be determined through negotiations between us and the representative. Among the factors considered in determining the offering price were:

- our financial information;
- the prior results of operations of the Contemplated Properties;

- our pro forma financial condition assuming the acquisition of the Contemplated Properties;
- the markets in which we operate or plan to operate;
- the economic condition in, and future prospects for, the industry in which we compete;
- the general condition of the economy in the United States and our target markets within the United States at the time of this offering;
- an assessment of our management, its past and present operations, and the prospects for, and timing of, our future revenues;
- currently prevailing general conditions in the equity securities markets, including current market valuations of publicly-traded companies considered comparable to our company;
- the market price of our common stock; and
- other facts we deem relevant.

We cannot assure you, however, that the price at which the securities offered by this prospectus will sell in the public market after this offering will not be lower than the initial public offering price or that an active trading market for the securities offered hereby will develop and continue after this offering.

Over-Allotment Option

We have granted to the underwriters an option, exercisable not later than 45 days after the effective date of the registration statement, to purchase up to of additional shares of Series B Preferred Stock and/or up to of additional Warrants less the underwriting discounts and commissions set forth on the cover of this prospectus. The underwriters may exercise this option only to cover over-allotments made in connection with this offering. We will be obligated, pursuant to the option, to sell these additional shares of Series B Preferred Stock and Warrants to the underwriters to the extent the option is exercised.

Lock-ups

Our officers and directors have agreed not to offer, sell or otherwise dispose of any of our securities for a period of six (6) months after the date on which the distribution of the securities offered by this prospectus is completed, without first obtaining the written consent of Maxim. Specifically, we and these other persons have agreed, with certain limited exceptions, not to directly or indirectly:

- offer, pledge, sell or contract to sell any securities offered by this prospectus;
- sell any option or contract to purchase any securities offered hereby;
- purchase any option or contract to sell any securities offered hereby;
- grant any option, right or warrant for the sale of any securities offered hereby;
- lend or otherwise transfer or dispose of any securities offered hereby;
- file or cause to be filed any registration statement related to the securities offered hereby; or
- enter into any swap or other agreement or transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of any securities offered hereby whether any such swap, agreement or transaction is to be settled by the delivery of securities offered hereby or other securities, in cash or otherwise.

This lock-up provision applies to, shares of Series B Preferred Stock, Warrants, our common stock and to securities convertible into or exchangeable or exercisable for or repayable with shares of Series B Preferred Stock, Warrants or our common stock. It also applies to the securities offered hereby owned now or acquired later by the person executing the agreement or for which the person executing the agreement later acquires the power of disposition. In the event that either (i) during the last 17 days of the lock-up period referred to above, we issue an earnings release or material news or a material event relating to us occurs or (ii) prior to the

expiration of the lock-up period, we announce that we will release earnings results or become aware that material news or a material event will occur during the 16-day period beginning on the last day of the lock-up period, the restrictions described above shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

Price Stabilization, Short Positions and Penalty Bids

Until the distribution of the securities offered by this prospectus is completed, the rules of the SEC may limit the ability of the underwriters to bid for and to purchase such securities. As an exception to these rules, the underwriters may engage in transactions effected in accordance with Regulation M under the Exchange Act that are intended to stabilize, maintain or otherwise affect the price of our securities offered hereby. The underwriters may engage in over-allotment sales, syndicate covering transactions, stabilizing transactions and penalty bids in accordance with Regulation M.

- Stabilizing transactions permit bids or purchases for the purpose of pegging, fixing or maintaining the price of the shares of Series B Preferred Stock and Warrants, so long as stabilizing bids do not exceed a specified maximum.
- Over-allotment involves sales by the underwriters of securities offered by this prospectus in excess of the number of securities the underwriters are obligated to purchase, which creates a short position. The short position may be either a covered short position or a naked short position. In a covered short position, the number of securities over-allotted by the underwriters is not greater than the number of securities that they may purchase in the over-allotment option. In a naked short position, the number of securities involved is greater than the number of securities in the over-allotment option. The underwriters may close out any covered short position by either exercising their over-allotment option or purchasing securities offered by this prospectus in the open market.
- Covering transactions involve the purchase of securities in the open market after the distribution has been completed in order to cover short positions. In determining the source of securities to close out the short position, the underwriters will consider, among other things, the price of securities available for purchase in the open market as compared to the price at which they may purchase securities offered hereby through the over-allotment option. If the underwriters sell more Units than could be covered by the over-allotment option, creating a naked short position, the position can only be closed out by buying securities in the open market. A naked short position is more likely to be created if the underwriters are concerned that there could be downward pressure on the price of the securities in the open market after pricing that could adversely affect investors who purchase securities in this offering.
- Penalty bids permit the underwriters to reclaim a selling concession from a selected dealer when the securities originally sold by the selected dealer is purchased in a stabilizing or syndicate covering transaction.

These stabilizing transactions, covering transactions and penalty bids may have the effect of raising or maintaining the market price of the securities offered by this prospectus or preventing or retarding a decline in the market price of our securities. As a result, the price of our securities offered hereby may be higher than the price that might otherwise exist in the open market.

Neither we nor the underwriters make any representation or prediction as to the effect that the transactions described above may have on the price of the shares of Series B Preferred Stock, the Warrants or the common stock into which such securities may be converted. These transactions may occur on the Nasdaq Stock Market or on any other trading market. If any of these transactions are commenced, they may be discontinued without notice at any time.

Other Matters

The estimated expenses of this offering payable by us, exclusive of the underwriting discount, are approximately $500,000. In addition, we will pay the representative at the closing of the offering a non-accountable

expense allowance of 1.00% of the gross proceeds of this offering (excluding any securities sold pursuant to the over-allotment option), against which any advance paid to the representative will be credited. Any such advance shall be used solely to pay for the representative's accountable out-of-pocket and legal expenses. Any unused portion of such advance shall be returned to us upon the termination of the period for which the representative was engaged hereby.

The underwriting agreement provides for indemnification between the underwriters and us against specified liabilities, including liabilities under the Securities Act, and for contribution by us and the underwriters to payments that may be required to be made with respect to those liabilities. We have been advised that, in the opinion of the Securities and Exchange Commission, indemnification liabilities under the Securities Act is against public policy as expressed in the Securities Act, and is therefore, unenforceable.

A prospectus in electronic format may be made available on a website maintained by the representative. The representative may agree to allocate a number of the securities offered hereby for sale to their online brokerage account holders. The representative may make Internet distributions on the same basis as other allocations. In connection with the offering, the underwriters may distribute prospectuses electronically. No forms of electronic prospectus other than prospectuses that are printable as Adobe® PDF will be used in connection with this offering.

The representative has informed us that it does not expect to confirm sales of securities offered by this prospectus to accounts over which it exercises discretionary authority.

Other Relationships

Some of the underwriters and their affiliates have in the past and may in the future engage in investment banking and other commercial dealings in the ordinary course of business with us or our affiliates and may in the future receive customary fees and commissions for these transactions. Except as set forth herein, no such arrangement has been entered into or contemplated. As previously disclosed in our Current Report on Form 8-K, John McAuliffe resigned as a member of our Board and chairman of the Audit Committee on April 9, 2013. Mr. McAuliffe is a Managing Director of Newbridge Securities Corporation. While serving as a director, Mr. McAuliffe received customary director compensation discussed in our Annual Report on Form 10-K.

In addition, in the ordinary course of their business activities, the underwriters and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of ours or our affiliates. The underwriters and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

Foreign Regulatory Restrictions on Purchase of Securities Offered Hereby Generally

No action has been or will be taken in any jurisdiction (except in the United States) that would permit a public offering of the securities offered by this prospectus, or the possession, circulation or distribution of this prospectus or any other material relating to us or the securities offered hereby in any jurisdiction where action for that purpose is required. Accordingly, the securities offered hereby may not be offered or sold, directly or indirectly, and neither of this prospectus nor any other offering material or advertisements in connection with the securities offered hereby may be distributed or published, in or from any country or jurisdiction except in compliance with any applicable rules and regulations of any such country or jurisdiction.

Each of the underwriters may arrange to sell securities offered by this prospectus in certain jurisdictions outside the United States, either directly or through affiliates, where they are permitted to do so.

LEGAL MATTERS

Certain legal matters will be passed upon for us by Haneberg, PLC and for the underwriters by Harter Secrest & Emery LLP. Haneberg, PLC will pass upon the validity of the securities sold in this offering, and Kaufman & Canoles, P.C. will pass upon certain other matters of Maryland law. In addition, the description of federal income tax consequences contained in the section of the prospectus entitled "Federal Income Tax Considerations" is based on the opinion of Kaufman & Canoles, P.C.

EXPERTS

The consolidated and combined balance sheets of Wheeler Real Estate Investment Trust, Inc. and subsidiaries as of December 31, 2013 and 2012, and the related consolidated and combined statements of operations, equity and cash flows for each of the years in the two year period ended December 31, 2013 incorporated by reference into this prospectus and registration statement, have been audited by Cherry Bekaert LLP, an independent registered public accounting firm, as set forth in their reports thereon, and are included in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION ABOUT WHEELER REAL ESTATE INVESTMENT TRUST, INC.

We file annual, quarterly and current reports, proxy statements and other information with the SEC under the Exchange Act.

You may request and obtain a copy of these filings, at no cost to you, by writing or telephoning us at the following address or telephone number:

Riversedge North
2529 Virginia Beach Blvd., Suite 200
Virginia Beach, Virginia 23452
(757) 627-9088

This prospectus is part of the registration statement and does not contain all the information included in the registration statement and all its exhibits, certificates and schedules. Whenever a reference is made in this prospectus to any contract or other document of ours, the reference may not be complete and you should refer to the exhibits that are a part of the registration statement for a copy of the contract or document.

You may read and copy our registration statement and all its exhibits and schedules that we have filed with the SEC, at the Public Reference Room at 100 F. Street, N.E., Washington, D.C. 20549. This material, as well as copies of all other documents filed with the SEC, may be obtained from the Public Reference Section of the SEC, 100 F. Street, N.E., Washington D.C. 20549 upon payment of the fee prescribed by the SEC. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330 or e-mailing the SEC at publicinfo@sec.gov. The SEC maintains a web site that contains reports, proxy statements, information statements and other information regarding registrants that file electronically with the SEC, including us. The address of this website is http://www.sec.gov.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The following documents filed by us with the SEC are incorporated by reference into this prospectus. You should carefully read and consider all of these documents before making an investment decision.

- Annual Report on Form 10-K for the fiscal year ended December 31, 2013, filed on March 21, 2014;
- Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2014 and June 30, 2014, filed on May 15, 2014 and August 14, 2014, respectively;

- Current Reports on Form 8-K filed on January 7, 2014, January 16, 2014, February 4, 2014, February 6, 2014, February 19, 2014, February 28, 2014, March 18, 2014, March 24, 2014, April 2, 2014, April 17, 2014, April 29, 2014, April 30, 2014, May 8, 2014, May 21, 2014, May 28, 2014, June 9, 2014, June 10, 2014, June 17, 2014, June 18, 2014, June 30, 2014, July 3, 2014, July 7, 2014, July 16, 2014, July 30, 2014, August 12, 2014, August 14, 2014, August 15, 2014 and August 19, 2014.

Nothing in this prospectus shall be deemed to incorporate information deemed furnished but not filed with the SEC. Any statement contained in a document that is incorporated by reference will be modified or superseded for all purposes to the extent that a statement contained in this prospectus modifies or is contrary to that previous statement. Any statement so modified or superseded will not be deemed a part of this prospectus except as so modified or superseded.

We will provide to each person, including any beneficial owner, to whom a prospectus is delivered, a copy of any or all of the reports or documents that have been incorporated by reference into this prospectus but not delivered with this prospectus. We will provide these reports upon written or oral request at no cost to the requester. Please direct your request, either in writing or by telephone, to Secretary, Wheeler Real Estate Investment Trust, Inc., Riversedge North, 2529 Virginia Beach Boulevard, Virginia Beach, Virginia 23452, telephone number (757) 627-9088. Our SEC filings are also available to the public on our website, www.WHLR.us. The information on our website is not a part of this prospectus and the reference to our website address does not constitute incorporation by reference of any information on our website into this prospectus.

This prospectus is part of a registration statement we have filed with the SEC on Form S-11 relating to our common stock, Warrants and Series B Preferred Stock. As permitted by SEC rules, this prospectus does not contain all of the information included in the registration statement and the accompanying exhibits and schedules we file with the SEC. We have incorporated by reference certain legal documents that control the terms of our common stock offered by this prospectus as exhibits to the registration statement. You may refer to the registration statement and the exhibits for more information about us and our common stock. The registration statement and exhibits are also available at the SEC's Public Reference Room or through its web site.

The section entitled "Where You Can Find More Information About Wheeler Real Estate Investment Trust, Inc." above describes how you can obtain or access any documents or information that we have incorporated by reference herein. The information relating to us contained in this prospectus does not purport to be comprehensive and should be read together with the information contained in the documents incorporated or deemed to be incorporated by reference in this prospectus.

Upon written or oral request, we will provide, free of charge, to each person, including any beneficial owner, to whom a prospectus is delivered, a copy of any or all of the reports or documents that are incorporated by reference into this prospectus. Such written or oral requests should be made to:

Riversedge North
2529 Virginia Beach Blvd., Suite 200
Virginia Beach, Virginia 23452
(757) 627-9088

In addition, such reports and documents may be found on our website at *www.WHLR.us*.

GLOSSARY

Unless the context otherwise requires, the following capitalized terms shall have the meanings set forth below for the purposes of this prospectus.

"2013 Acquisitions" means the 12 properties we acquired in 2013, as more fully described on pages 24-25 hereof.

"2013 Form 10-K" means our Annual Report on Form 10-K filed with the SEC on March 21, 2014.

"2014 Completed Acquisitions" means the properties we have acquired subsequent to June 30, 2014, as more fully described on page 7 hereof.

"1940 Act" means the Investment Company Act of 1940, as amended.

"ADA" means the Americans with Disabilities Act, as amended.

"Administrative Service Company" means WHLR Management, LLC.

"ASC" means Accounting Standards Codification.

"Code" means the Internal Revenue Code of 1986, as amended.

"Contemplated Acquisitions" means the properties that we anticipate acquiring in part, with the proceeds of this offering, as more fully described on page 7 hereof.

"ERISA" means the Employment Retirement Income Security Act of 1974, as amended.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"FHAA" means the Fair Housing Amendment Act of 1988.

"FIRPTA" means the Foreign Investment in Real Property Tax Act.

"IRS" means the Internal Revenue Service.

"JOBS Act" means the Jumpstart Our Business Startups Act of 2012.

"June 2014 Form 10-Q" means that Quarterly Report on Form 10-Q filed with the SEC on August 14, 2014.

"MGCL" means the Maryland General Corporation Law.

"NAREIT" means National Association of Real Estate Investment Trusts.

"Operating Partnership" means Wheeler REIT, L.P.

"Ownership Limits" means restrictions in our charter prohibiting any person from actually, beneficially or constructively owning more than 9.8% in value or number of shares, whichever is more restrictive, of the outstanding shares of common stock or more than 9.8% in value of the aggregate outstanding shares of all classes and series of our stock.

"Partnership Agreement" means the Amended and Restated Agreement of Limited Partnership of Wheeler REIT, L.P.

"Preferred Holder" means a holder of shares of Series B Preferred Stock.

"REIT" means real estate investment trust as defined in the Code.

"SEC" means the United States Securities and Exchange Commission.

"Series B Preferred Stock" means our Series B Convertible Preferred Stock, without par value per share.

“Services Companies” means collectively, Wheeler Interests, LLC, Wheeler Real Estate, LLC, Wheeler Capital, LLC, Site Applications, LLC, Creative Retail Works and TESR, LLC.

“Stated Value” means the initial $25.00 value ascribed to a share of Series B Preferred Stock, as may be adjusted, from time to time, pursuant to the terms of our charter.

“UBTI” means unrelated business taxable income.

“UPREIT” means umbrella partnership real estate investment trust.

“Underwriters” means Maxim Group LLC and Newbridge Securities Corporation.

“USRPHC” means U.S. real property holding company.

“USRPI” means U.S. real property interest.

“Warrant” means a warrant to purchase shares of our common stock issued as part of this offering.

AUDITED AND OTHER FINANCIAL INFORMATION OF THE CONTEMPLATED ACQUISITIONS

Report of Independent Auditor

To the Board Trustees and Shareholders of
Wheeler Real Estate Investment Trust, Inc.

Report on the Statements

We have audited the accompanying statements of revenues and certain operating expenses (the "Statements") of Brook Run Shopping Center (the "Property") for the years ended December 31, 2013 and 2012.

Management's Responsibility for the Statements

Management is responsible for the preparation and fair presentation of these Statements, in accordance with accounting principles generally accepted in the United States of America, that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these Statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the Statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the Statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the Statements.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the Statements referred to above present fairly, in all material respects, the revenue and certain operating expenses of the Property for the years ended December 31, 2013 and 2012 in conformity with accounting principles generally accepted in the United States of America.

Emphasis of Matter

The accompanying Statements were prepared as described in Note 2, for the purpose of complying with the rules and regulations of the Securities and Exchange Commission for inclusion in the Form 8-K of Wheeler Real Estate Investment Trust, Inc. and are not intended to be a complete presentation of the Property's revenue and expenses.

/s/ Cherry Bekaert LLP

Virginia Beach, Virginia
March 26, 2014

Brook Run Shopping Center
Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (unaudited) and the Years Ended December 31, 2013 and 2012

	Six Months Ended June 30, 2014 (unaudited)	Years Ended December 31, 2013	2012
REVENUES:			
Rental income	$ 788,900	$1,670,779	$1,537,675
Tenant reimbursements and other income	161,796	374,677	458,479
Total Revenues	950,696	2,045,456	1,996,154
CERTAIN OPERATING EXPENSES:			
Property operating	164,100	279,400	258,629
Real estate taxes	66,267	132,533	138,547
Repairs and maintenance	64,378	111,915	102,553
Other	18,557	61,299	70,331
Total Certain Operating Expenses	313,302	585,147	570,060
Excess of Revenues Over Certain Operating Expenses	$ 637,394	$1,460,309	$1,426,094

See accompanying notes to statements of revenues and certain operating expenses.

Brook Run Shopping Center
Notes to Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (unaudited) and the Years Ended December 31, 2013 and 2012

1. Business and Purchase and Sales Agreement

Wheeler Real Estate Investment Trust, Inc., through its subsidiary of Wheeler Real Estate investment Trust, L.P., expects to enter into a Contribution and Subscription agreement (the "Agreement") with the property's owners to acquire Brook Run Shopping Center (the "Property"), a 147,738 square foot grocery-anchored shopping center located in Richmond, Virginia for a purchase price of approximately $19.2 million. Closing of the Agreement is subject to obtaining the necessary financing and customary due diligence. The Property is 92% occupied and is anchored by a Martin's Food Store which occupies approximately 40% of the total rentable square feet of the center through a lease that was originally for 20 years and is currently in its first five-year option period expiring in August 2015 with four five-year options remaining.

2. Basis of Presentation

The Statements of Revenues and Certain Operating Expenses (the "Statements") have been prepared for the purpose of complying with Rule 3-14 of Regulation S-X, promulgated by the Securities and Exchange Commission, and are not intended to be a complete presentation of the Property's revenues and expenses. Certain operating expenses include only those expenses expected to be comparable to the proposed future operations of the Property. Expenses such as depreciation and amortization are excluded from the accompanying Statements. The Statements have been prepared on the accrual basis of accounting which requires management to make estimates and assumptions that affect the reported amounts of the revenues and expenses during the reporting periods. Actual results may differ from those estimates.

3. Revenues

The Property leases retail space under various lease agreements with its tenants. All leases are accounted for as noncancelable operating leases. The leases include provisions under which the Property is reimbursed for common area maintenance, real estate taxes and insurance costs. Pursuant to the lease agreements, income related to these reimbursed costs is recognized in the period the applicable costs are incurred. Certain leases contain renewal options at various periods at various rental rates.

The following table lists the tenants whose annualized rental income on a straight-line basis represented greater than 10% of total annualized rental income for all tenants on a straight line basis for the six months ended June 30, 2014 (unaudited) and as of December 31, 2013 and 2012:

Tenant	June 30, 2014	December 31, 2013	December 31, 2012
Martin's	30.1%	31.0%	28.7%
Fitness Evolution	21.9%	21.0%	0.0%
CareMore Medical Enterprises	13.9%	13.0%	12.0%
American Family Fitness	0.0%	0.0%	23.8%

The termination, delinquency or nonrenewal of one of the above tenants may have a material adverse effect on revenues. No other tenant represents more than 10% of annualized rental income as of June 30, 2014 (unaudited), December 31, 2013 and 2012.

Brook Run Shopping Center
Notes to Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (unaudited) and the Years Ended December 31, 2013 and 2012
(continued)

The weighted average remaining lease terms for tenants at the property was 3.72 years as of June 30, 2014 (unaudited). Future minimum rentals to be received under noncancelable tenant operating leases for each of the next five years and thereafter, excluding CAM and percentage rent based on tenant sales volume, as of June 30, 2014 (unaudited) and December 31, 2013 were as follows:

	Twelve Months Ending June 30, (unaudited)	Years Ending December 31,
2014	$ —	$ 1,580,289
2015	1,563,521	1,389,849
2016	1,115,936	978,790
2017	913,528	844,558
2018	773,362	727,777
2019	707,247	696,168
Thereafter	1,646,890	1,298,490
	$ 6,720,484	$ 7,515,921

The above schedule takes into consideration all renewals and new leases executed subsequent to June 30, 2014 until the date of this report.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL INFORMATION

The following unaudited pro forma condensed consolidated financial statements have been prepared to provide pro forma information with regard to the anticipated acquisition of Brook Run Shopping Center (the "Property"), which Wheeler Real Estate Investment Trust, Inc. and Subsidiaries ("Wheeler REIT" or the "Company"), through Wheeler Real Estate Investment Trust, L.P. ("Operating Partnership"), its majority-owned subsidiary, by exercising its rights under a Contribution and Subscription agreement we expect to enter into with the property's owners for an aggregate purchase price of $19,196,850, which includes the assumption of approximately $16,704,800 in debt. The Contribution and Subscription agreement is expected to replace a purchase and sale agreement we previously entered into to acquire the property.

The unaudited pro forma condensed consolidated balance sheet as of June 30, 2014 gives effect to the anticipated acquisition of the Property as if it occurred on June 30, 2014. The Wheeler REIT column as of June 30, 2014 represents the actual balance sheet presented in the Company's Quarterly Report on Form 10-Q ("Form 10-Q") filed on August 14, 2014 with the Securities and Exchange Commission ("SEC") for the period. The pro forma adjustments column includes the preliminary estimated impact of purchase accounting and other adjustments for the year presented.

The unaudited pro forma condensed consolidated statements of operations for the Company and the Property for the six months ended June 30, 2014 and the year ended December 31, 2013 give effect to the Company's acquisition of the Property, as if it had occurred on the first day of the earliest period presented. The Wheeler REIT column for the six months ended June 30, 2014 represents the results of operations presented in the Company's Form 10-Q. The Wheeler REIT column for the year ended December 31, 2013 represents the results of operations presented in the Company's Annual Report on Form 10-K ("Form 10-K") filed with the SEC on March 21, 2014. The Property column includes the full period's operating activity for the Property, as the Property will be acquired subsequent to June 30, 2014 and therefore was not included in the Company's historical financial statements. The pro forma adjustments columns include the impact of purchase accounting and other adjustments for the periods presented.

The unaudited pro forma condensed consolidated financial statements have been prepared by the Company's management based upon the historical financial statements of the Company and of the acquired Property. Assuming the acquisition transaction closes during the third quarter of 2014, the Property will be included in the consolidated financial statements included in the Company's Form 10-Q for the three and nine months ended September 30, 2014, to be filed with the SEC. These pro forma statements may not be indicative of the results that actually would have occurred had the anticipated acquisition been in effect on the dates indicated or which may be obtained in the future.

In management's opinion, all adjustments necessary to reflect the effects of the Property acquisition have been made. These unaudited pro forma condensed consolidated financial statements are for informational purposes only and should be read in conjunction with the historical financial statements of the Company, including the related notes thereto, which were filed with the SEC on March 21, 2014 as part of its Form 10-K for the year ended December 31, 2013 and on August 14, 2014 as part of its Form 10-Q for the six months ended June 30, 2014.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Balance Sheet
As of June 30, 2014
(unaudited)

	Wheeler REIT (A)	Pro Forma Adjustments (B)	Pro Forma Consolidated
ASSETS:			
Net investment properties	$100,553,283	$16,510,500	$117,063,783
Cash and cash equivalents	16,243,867	(1,508,200)	14,735,667
Tenant and other receivables	1,663,027	635,000	2,298,027
Deferred costs, reserves, intangibles and other assets	21,692,120	2,051,400	23,743,520
Total Assets	$140,152,297	$17,688,700	$157,840,997
LIABILITIES:			
Mortgages and other indebtedness	$ 95,236,145	$16,704,800	$111,940,945
Below market lease intangibles	2,610,379	—	2,610,379
Accounts payable, accrued expenses and other liabilities	3,361,048	983,900	4,344,948
Total Liabilities	101,207,572	17,688,700	118,896,272
Commitments and contingencies	—	—	—
EQUITY:			
Series A preferred stock	1,458,050	—	1,458,050
Series B convertible preferred stock	18,738,515	—	18,738,515
Common stock	74,218	—	74,218
Additional paid-in capital	28,092,906	—	28,092,906
Accumulated deficit	(16,274,152)	—	(16,274,152)
Noncontrolling interest	6,855,188	—	6,855,188
Total Equity	38,944,725	—	38,944,725
Total Liabilities and Equity	$140,152,297	$17,688,700	$157,840,997

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Statement of Operations
For the Six Months Ended June 30, 2014
(unaudited)

	Wheeler REIT (A)	Property (B)	Pro Forma Adjustments (C)	Pro Forma Consolidated
REVENUES:				
Rental income	$ 5,948,100	$788,900	$ (11,709)(1)	$ 6,725,291
Tenant reimbursements and other income	1,349,746	161,796	—	1,511,542
Total Revenues	7,297,846	950,696	(11,709)	8,236,833
OPERATING EXPENSES AND CERTAIN OPERATING EXPENSES OF THE ACQUIRED:				
Property operating	1,832,219	294,745	—	2,126,964
Depreciation and amortization	3,521,546	—	999,142(2)	4,520,688
Provision for credit losses	(28,032)	—	—	(28,032)
Corporate general & administrative	2,217,867	18,557	—	2,236,424
Total Operating Expenses and Certain Operating Expenses of the Acquired	7,543,600	313,302	999,142	8,856,044
Operating Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	(245,754)	637,394	(1,010,851)	(619,211)
Interest expense	(2,905,575)	—	(411,850)(3)	(3,317,425)
Net Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	$(3,151,329)	$637,394	$(1,422,701)	$(3,936,636)

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Statement of Operations
For the Year Ended December 31, 2013
(unaudited)

	Wheeler REIT (D)	Property (E)	Pro Forma Adjustments (C)	Pro Forma Consolidated
REVENUES:				
Rental income	$ 7,158,549	$1,670,779	$ (23,417)(1)	$ 8,805,911
Tenant reimbursements and other income	1,548,943	374,677	—	1,923,620
Total Revenues	8,707,492	2,045,456	(23,417)	10,729,531
OPERATING EXPENSES AND CERTAIN OPERATING EXPENSES OF THE ACQUIRED:				
Property operating	1,713,957	523,848	—	2,237,805
Depreciation and amortization	3,466,957	—	1,998,283(2)	5,465,240
Provision for credit losses	106,828	—	—	106,828
Corporate general & administrative	5,297,166	61,299	—	5,358,465
Total Operating Expenses and Certain Operating Expenses of the Acquired	10,584,908	585,147	1,998,283	13,168,338
Operating Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	(1,877,416)	1,460,309	(2,021,700)	(2,438,807)
Interest expense	(2,497,810)	—	(844,180)(3)	(3,341,990)
Net Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	$ (4,375,226)	$1,460,309	$(2,865,880)	$ (5,780,797)

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Notes to Pro Forma Condensed Consolidated Financial Statements
(unaudited)

Pro Forma Balance Sheet

A. Reflects the consolidated balance sheet of the Company as of June 30, 2014 included in the Company's Form 10-Q for the six months ended June 30, 2014.

B. Represents the estimated pro forma effect of the Company's $19.2 million anticipated acquisition of the Property, assuming it occurred on June 30, 2014. The Company has initially allocated the purchase price of the acquired Property to land, building and improvements, identifiable intangible assets and to the acquired liabilities based on their preliminary estimated fair values. Identifiable intangibles include amounts allocated to above/below market leases, the value of in-place leases and customer relationships value, if any. The Company estimated fair value based on estimated cash flow projections that utilize appropriate discount and capitalization rates and available market information. Estimates of future cash flows are based on a number of factors including the historical operating results, known trends and specific market and economic conditions that may affect the Property. Factors considered by management in its analysis of estimating the as-if-vacant property value include an estimate of carrying costs during the expected lease-up periods considering market conditions, and costs to execute similar leases. In estimating carrying costs, management includes real estate taxes, insurance and estimates of lost rentals at market rates during the expected lease-up periods, tenant demand and other economic conditions. Management also estimates costs to execute similar leases including leasing commissions, tenant improvements, legal and other related expenses. Intangibles related to above/below market leases and in-place lease value are recorded as acquired lease intangibles and are amortized as an adjustment to rental revenue or amortization expense, as appropriate, over the remaining terms of the underlying leases.

Pro Forma Statement of Operations

A. Reflects the consolidated statement of operations of the Company for the six months ended June 30, 2014.

B. Amounts reflect the historical operations of the Property for the six months ended June 30, 2014, unless otherwise noted.

C. Represents the estimated unaudited pro forma adjustments related to the acquisition for the period presented.

(1) Represents estimated amortization of above/below market leases which are being amortized on a straight-line basis over the remaining terms of the related leases.

(2) Represents the estimated depreciation and amortization of the buildings and related improvements, leasing commissions, in place leases and capitalized legal/marketing costs resulting from the preliminary estimated purchase price allocation in accordance with accounting principles generally accepted in the United States of America. The buildings and site improvements are being depreciated on a straight-line basis over their estimated useful lives up to 40 years. The tenant improvements, leasing commissions, in place leases and capitalized legal/marketing costs are being amortized on a straight-line basis over the remaining terms of the related leases.

(3) Represents interest expense on mortgage debt to be assumed as part of the acquisition which matures in July 2015 and accrues interest at a rate of 5.00% per annum.

D. Reflects the consolidated statement of operations of the Company for the year ended December 31, 2013.

E. Amounts reflect the historical operations of the Property for the year ended December 31, 2013, unless otherwise noted.

Report of Independent Auditor

To the Board Trustees and Shareholders of
Wheeler Real Estate Investment Trust, Inc.

Report on the Statement

We have audited the accompanying statement of revenues and certain operating expenses (the "Statement") of Freeway Junction (the "Property") for the year ended December 31, 2013.

Management's Responsibility for the Statement

Management is responsible for the preparation and fair presentation of this Statement, in accordance with accounting principles generally accepted in the United States of America, that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on this Statement based on our audits. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the Statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the Statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the Statement.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the Statement referred to above presents fairly, in all material respects, the revenues and certain operating expenses of the Property for the year ended December 31, 2013 in conformity with accounting principles generally accepted in the United States of America.

Matter of Emphasis

The accompanying Statement was prepared as described in Note 2, for the purpose of complying with the rules and regulations of the Securities and Exchange Commission for inclusion in the Form 8-K of Wheeler Real Estate Investment Trust, Inc. and is not intended to be a complete presentation of the Property's revenues and expenses.

/s/ Cherry Bekaert LLP

Virginia Beach, Virginia
August 19, 2014

Freeway Junction
Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (unaudited) and the Year Ended December 31, 2013

	Six Months Ended June 30, 2014 (unaudited)	Year Ended December 31, 2013
REVENUES:		
Rental Income	$ 435,292	$ 929,694
Tenant reimbursements and other income	151,476	324,893
Total Revenues	586,768	1,254,587
CERTAIN OPERATING EXPENSES:		
Property operating	73,021	161,145
Real estate taxes	83,186	149,199
Repairs and maintenance	7,521	7,732
Other	53,596	53,026
Total Certain Operating Expenses	217,324	371,102
Excess of Revenues Over Certain Operating Expenses	$ 369,444	$ 883,485

See accompanying notes to statements of revenues and certain operating expenses.

Freeway Junction
Notes to Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (Unaudited) and the Year Ended December 31, 2013

1. Business and Purchase and Sales Agreement

On June 5, 2014, Wheeler Real Estate Investment Trust, Inc., through its subsidiary of Wheeler Real Estate Investment Trust, L.P., assumed from Wheeler Interests, LLC ("Wheeler Interests") the Purchase and Sales Agreement (the "Agreement") to acquire Freeway Junction (the "Property"), a 156,834 square foot grocery-anchored shopping center located in Boiling Springs, South Carolina for a purchase price of approximately $10.45 million. Closing of the Agreement is subject to obtaining the necessary financing and customary due diligence. The Property is 95% occupied and is anchored by Northern Tool, Ollie's Bargain Outlet, Goodwill and Farmer's Furniture, which occupy approximately 70% of the total rentable square feet of the center through various leases that expire though August 2021.

2. Basis of Presentation

The Statement of Revenues and Certain Operating Expenses (the "Statement") have been prepared for the purpose of complying with Rule 3-14 of Regulation S-X, promulgated by the Securities and Exchange Commission, and are not intended to be a complete presentation of the Property's revenues and expenses. Certain operating expenses include only those expenses expected to be comparable to the proposed future operations of the Property. Expenses such as depreciation and amortization are excluded from the accompanying Statement. The Statement has been prepared on the accrual basis of accounting which requires management to make estimates and assumptions that affect the reported amounts of the revenues and expenses during the reporting periods. Actual results may differ from those estimates.

3. Revenues

The Property leases retail space under various lease agreements with its tenants. All leases are accounted for as noncancelable operating leases. The leases include provisions under which the Property is reimbursed for common area maintenance, real estate taxes and insurance costs. Pursuant to the lease agreements, income related to these reimbursed costs is recognized in the period the applicable costs are incurred. Certain leases contain renewal options at various periods at various rental rates.

The following table lists the tenants whose annualized rental income on a straight-line basis represented greater than 10% of total annualized rental income for all tenants on a straight line basis as of June 30, 2014 (unaudited) and December 31, 2013:

Tenant	June 30, 2014	December 31, 2013
Northern Tool	29.6%	29.6%
Goodwill	25.8%	25.8%
Citi Trends	10.2%	10.2%

No other tenant represents more than 10% of annualized rental income as of June 30, 2014 (unaudited) and December 31, 2013.

Freeway Junction
Notes to Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (Unaudited) and the Year Ended December 31, 2013
(continued)

The weighted average remaining lease terms for tenants at the property was 2.97 years as of June 30, 2014 (unaudited). Future minimum rentals to be received under noncancelable tenant operating leases for each of the next five years and thereafter, excluding CAM and percentage rent based on tenant sales volume, as of June 30, 2014 (unaudited) and December 31, 2013 were as follows:

	Twelve Months Ending June 30, (unaudited)	Years Ending December 31,
2014	$ —	$ 947,033
2015	948,776	885,558
2016	705,327	447,432
2017	237,402	160,538
2018	149,307	143,453
2019	121,553	92,153
Thereafter	183,415	141,089
	$ 2,345,780	$ 2,817,256

The above schedule takes into consideration all renewals and new leases executed subsequent to June 30, 2014 until the date of this report.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL INFORMATION

The following unaudited pro forma condensed consolidated financial statements have been prepared to provide pro forma information with regard to the anticipated acquisition of Freeway Junction ("the Property"), which Wheeler Real Estate Investment Trust, Inc. and Subsidiaries ("Wheeler REIT" or the "Company"), through Wheeler Real Estate Investment Trust, L.P. ("Operating Partnership"), its majority-owned subsidiary, obtained the right to acquire through the assumption of a Purchase and Sales Agreement from a related party on June 5, 2014.

The unaudited pro forma condensed consolidated balance sheet as of June 30, 2014 gives effect to the anticipated acquisition of the Property as if it occurred on June 30, 2014. The Wheeler REIT column as of June 30, 2014 represents the actual balance sheet presented in the Company's Quarterly Report on Form 10-Q ("Form 10-Q") filed on August 14, 2014 with the Securities and Exchange Commission ("SEC") for the period. The pro forma adjustments column includes the preliminary estimated impact of purchase accounting and other adjustments for the periods presented.

The unaudited pro forma condensed consolidated statements of operations for the Company and the Property for the six months ended June 30, 2014 and the year ended December 31, 2013 give effect to the Company's anticipated acquisition of the Property, as if it had occurred on the first day of the earliest period presented. The Wheeler REIT column for the six months ended June 30, 2014 represents the results of operations presented in the Company's Form 10-Q. The Wheeler REIT column for the year ended December 31, 2013 represents the results of operations presented in the Company's Annual Report on Form 10-K ("Form 10-K") filed with the SEC on March 21, 2014. The Property column includes the full period's operating activity for the Property, as the Property will be acquired subsequent to June 30, 2014 and therefore was not included in the Company's historical financial statements. The pro forma adjustments columns include the impact of purchase accounting and other adjustments for the periods presented.

The unaudited pro forma condensed consolidated financial statements have been prepared by the Company's management based upon the historical financial statements of the Company and of the acquired Property. Assuming the acquisition transaction closes during the third quarter of 2014, the Property will be included in the consolidated financial statements included in the Company's Form 10-Q for the three months ended September 30, 2014, to be filed with the SEC. These pro forma statements may not be indicative of the results that actually would have occurred had the anticipated acquisition been in effect on the dates indicated or which may be obtained in the future.

In management's opinion, all adjustments necessary to reflect the effects of the Property acquisition have been made. These unaudited pro forma condensed consolidated financial statements are for informational purposes only and should be read in conjunction with the historical financial statements of the Company, including the related notes thereto, which were filed with the SEC on March 21, 2014 as part of its Form 10-K for the year ended December 31, 2013 and on August 14, 2014 as part of its Form 10-Q for the three months ended June 30, 2014.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Balance Sheet
As of June 30, 2014
(unaudited)

	Wheeler REIT (A)	Pro Forma Adjustments (B)	Pro Forma Consolidated
ASSETS:			
Net investment properties	$100,553,283	$ 8,278,356	$108,831,639
Cash and cash equivalents	16,243,867	(2,300,000)	13,943,867
Tenant and other receivables	1,663,027	—	1,663,027
Deferred costs, reserves, intangibles and other assets	21,692,120	2,763,110	24,455,230
Total Assets	$140,152,297	$ 8,741,466	$148,893,763
LIABILITIES:			
Mortgages and other indebtedness	$ 95,236,145	$ 8,150,000	$103,386,145
Below market lease intangibles	2,610,379	591,466	3,201,845
Accounts payable, accrued expenses and other liabilities	3,361,048	—	3,361,048
Total Liabilities	101,207,572	8,741,466	109,949,038
Commitments and contingencies	—	—	—
EQUITY:			
Series A preferred stock	1,458,050	—	1,458,050
Series B convertible preferred stock	18,738,515	—	18,738,515
Common stock	74,218	—	74,218
Additional paid-in capital	28,092,906	—	28,092,906
Accumulated deficit	(16,274,152)	—	(16,274,152)
Noncontrolling interest	6,855,188	—	6,855,188
Total Equity	38,944,725	—	38,944,725
Total Liabilities and Equity	$140,152,297	$ 8,741,466	$148,893,763

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Statement of Operations
For the Six Months Ended June 30, 2014
(unaudited)

	Wheeler REIT (A)	Property (B)	Pro Forma Adjustments (C)	Pro Forma Consolidated
REVENUES:				
Rental income	$ 5,948,100	$435,292	$ (86,626)(1)	$ 6,296,766
Tenant reimbursements and other income	1,349,746	151,476	—	1,501,222
Total Revenues	7,297,846	586,768	(86,626)	7,797,988
OPERATING EXPENSES AND CERTAIN OPERATING EXPENSES OF THE ACQUIRED:				
Property operating	1,832,219	163,728	—	1,995,947
Depreciation and amortization	3,521,546	—	430,781(2)	3,952,327
Provision for credit losses	(28,032)	—	—	(28,032)
Corporate general & administrative and other	2,217,867	53,596	—	2,271,463
Total Operating Expenses and Certain Operating Expenses of the Acquired	7,543,600	217,324	430,781	8,191,705
Operating Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	(245,754)	369,444	(517,407)	(393,717)
Interest expense	(2,905,575)	—	(183,375)(3)	(3,088,950)
Net Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	$(3,151,329)	$369,444	$ (700,782)	$(3,482,667)

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Statement of Operations
For the Year Ended December 31, 2013
(unaudited)

	Wheeler REIT (D)	Property (E)	Pro Forma Adjustments (C)	Pro Forma Consolidated
REVENUES:				
Rental income	$ 7,158,549	$ 929,694	$ (168,383)(1)	$ 7,919,860
Tenant reimbursements and other income	1,548,943	324,893	—	1,873,836
Total Revenues	8,707,492	1,254,587	(168,383)	9,793,696
OPERATING EXPENSES AND CERTAIN OPERATING EXPENSES OF THE ACQUIRED:				
Property operating	1,713,957	318,076	—	2,032,033
Depreciation and amortization	3,466,957	—	980,004(2)	4,446,961
Provision for credit losses	106,828	—	—	106,828
Corporate general & administrative	5,297,166	53,026	—	5,350,192
Total Operating Expenses and Certain Operating Expenses of the Acquired	10,584,908	371,102	980,004	11,936,014
Operating Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	(1,877,416)	883,485	(1,148,387)	(2,142,318)
Interest expense	(2,497,810)	—	(366,750)(3)	(2,864,560)
Net Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	$ (4,375,226)	$ 883,485	$(1,515,137)	$ (5,006,878)

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Notes to Pro Forma Condensed Consolidated Financial Statements
(unaudited)

Pro Forma Balance Sheet

A. Reflects the unaudited condensed consolidated balance sheet of the Company as of June 30, 2014 included in the Company's Form 10-Q for the three months ended June 30, 2014.

B. Represents the estimated pro forma effect of the Company's $10.45 million anticipated acquisition of the Property, assuming it occurred on June 30, 2014. The Company has initially allocated the purchase price of the acquired Property to land, building and improvements, identifiable intangible assets and to the acquired liabilities based on their preliminary estimated fair values. Identifiable intangibles include amounts allocated to above/below market leases, the value of in-place leases and customer relationships value, if any. The Company estimated fair value based on estimated cash flow projections that utilize appropriate discount and capitalization rates and available market information. Estimates of future cash flows are based on a number of factors including the historical operating results, known trends and specific market and economic conditions that may affect the Property. Factors considered by management in its analysis of estimating the as-if-vacant property value include an estimate of carrying costs during the expected lease-up periods considering market conditions, and costs to execute similar leases. In estimating carrying costs, management includes real estate taxes, insurance and estimates of lost rentals at market rates during the expected lease-up periods, tenant demand and other economic conditions. Management also estimates costs to execute similar leases including leasing commissions, tenant improvements, legal and other related expenses. Intangibles related to above/below market leases and in-place lease value are recorded as acquired lease intangibles and are amortized as an adjustment to rental revenue or amortization expense, as appropriate, over the remaining terms of the underlying leases.

Pro Forma Statement of Operations

A. Reflects the consolidated statement of operations of the Company for the six months ended June 30, 2014.

B. Amounts reflect the historical operations of the Property for the six months ended June 30, 2014, unless otherwise noted.

C. Represents the estimated unaudited pro forma adjustments related to the acquisition for the period presented.

(1) Represents estimated amortization of above/below market leases which are being amortized on a straight-line basis over the remaining terms of the related leases.

(2) Represents the estimated depreciation and amortization of the buildings and related improvements, leasing commissions, in place leases and capitalized legal/marketing costs resulting from the preliminary estimated purchase price allocation in accordance with accounting principles generally accepted in the United States of America. The buildings and site improvements are being depreciated on a straight-line basis over their estimated useful lives up to 40 years. The tenant improvements, leasing commissions, in place leases and capitalized legal/marketing costs are being amortized on a straight-line basis over the remaining terms of the related leases.

(3) Represents interest expense on mortgage debt to be assumed as part of the acquisition which matures in July 2015 and accrues interest at a rate of 4.50% per annum.

D. Reflects the consolidated statement of operations of the Company for the year ended December 31, 2013.

E. Amounts reflect the historical operations of the Property for the year ended December 31, 2013, unless otherwise noted.

Report of Independent Auditor

To the Board of Directors and Shareholders of
Wheeler Real Estate Investment Trust, Inc.

Report on the Statements

We have audited the accompanying statements of revenues and certain operating expenses (the "Statements") of Northeast Plaza Shopping Center (the "Property") for the years ended December 31, 2013 and 2012.

Management's Responsibility for the Statements

Management is responsible for the preparation and fair presentation of these Statements, in accordance with accounting principles generally accepted in the United States of America, that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these Statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the Statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the Statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the Statements.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the Statements referred to above present fairly, in all material respects, the revenue and certain operating expenses of the Property for the years ended December 31, 2013 and 2012 in conformity with accounting principles generally accepted in the United States of America.

Emphasis of Matter

The accompanying Statements were prepared as described in Note 2, for the purpose of complying with the rules and regulations of the Securities and Exchange Commission for inclusion in the Form 8-K of Wheeler Real Estate Investment Trust, Inc. and are not intended to be a complete presentation of the Property's revenue and expenses.

/s/ Cherry Bekaert LLP

Virginia Beach, Virginia
March 26, 2014

Northeast Plaza Shopping Center
Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (unaudited) and the Years Ended December 31, 2013 and 2012

	Six Months Ended June 30, 2014 (unaudited)	Years Ended December 31, 2013	2012
REVENUES:			
Rental income	$ 237,053	$ 459,711	$ 454,476
Tenant reimbursements and other income	15,801	100,069	64,786
Total Revenues	$ 252,854	559,780	519,262
CERTAIN OPERATING EXPENSES:			
Property operating	31,758	60,037	59,549
Real estate taxes	24,783	47,205	47,205
Repairs and maintenance	20,151	11,178	9,160
Other	11,109	11,961	25,471
Total Certain Operating Expenses	87,801	130,381	141,385
Excess of Revenues Over Certain Operating Expenses	$ 165,053	$ 429,399	$ 377,877

See accompanying notes to statements of revenues and certain operating expenses.

Northeast Plaza Shopping Center
Notes to Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (unaudited) and the Years Ended December 31, 2013 and 2012

1. Business and Purchase and Sale Agreement

Wheeler Real Estate Investment Trust, Inc., through its subsidiary of Wheeler Real Estate investment Trust, L.P., expects to enter into a Contribution and Subscription agreement (the "Agreement") with the property's owners to acquire Northeast Plaza Shopping Center (the "Property"), a 54,511 square foot grocery-anchored shopping center located in Lumberton, North Carolina for a purchase price of approximately $4.90 million. Closing of the Agreement is subject to obtaining the necessary financing and customary due diligence. The Property is 95% occupied and is anchored by a Food Lion grocery store which occupies approximately 61% of the total rentable square feet of the center through a 20-year lease expiring in December 2020 with four five-year options.

2. Basis of Presentation

The Statements of Revenues and Certain Operating Expenses (the "Statements") have been prepared for the purpose of complying with Rule 3-14 of Regulation S-X, promulgated by the Securities and Exchange Commission, and are not intended to be a complete presentation of the Property's revenues and expenses. Certain operating expenses include only those expenses expected to be comparable to the proposed future operations of the Property. Expenses such as depreciation and amortization are excluded from the accompanying Statements. The Statements have been prepared on the accrual basis of accounting which requires management to make estimates and assumptions that affect the reported amounts of the revenues and expenses during the reporting periods. Actual results may differ from those estimates.

3. Revenues

The Property leases retail space under various lease agreements with its tenants. All leases are accounted for as noncancelable operating leases. The leases include provisions under which the Property is reimbursed for common area maintenance, real estate taxes and insurance costs. Pursuant to the lease agreements, income related to these reimbursed costs is recognized in the period the applicable costs are incurred. Certain leases contain renewal options at various periods at various rental rates.

The following table lists the tenants whose annualized rental income on a straight-line basis represented greater than 10% of total annualized rental income for all tenants on a straight line basis as of June 30, 2014 (unaudited), December 31, 2013 and 2012:

Tenant	June 30, 2014	December 31, 2013	December 31, 2012
Food Lion, Inc.	61.4%	63.5%	64.3%
Dollar General, Inc.	10.5%	10.9%	11.0%

The termination, delinquency or nonrenewal of one of the above tenants may have a material adverse effect on revenues. No other tenant represents more than 10% of annualized rental income as of June 30, 2014 (unaudited), December 31, 2013 and 2012.

Northeast Plaza Shopping Center
Notes to Statements of Revenues and Certain Operating Expenses
For the Six Months Ended June 30, 2014 (unaudited) and the Years Ended December 31, 2013 and 2012
(continued)

The weighted average remaining lease terms for tenants at the property was 4.76 years as of June 30, 2014 (unaudited). Future minimum rentals to be received under noncancelable tenant operating leases for each of the next five years and thereafter, excluding CAM and percentage rent based on tenant sales volume, as of June 30, 2014 (unaudited) and December 31, 2013 were as follows:

	Twelve Months Ending June 30, (unaudited)	Years Ending December 31,
2014	$ —	$ 475,732
2015	445,823	399,623
2016	376,132	363,582
2017	358,948	357,998
2018	348,148	338,830
2019	328,660	319,650
Thereafter	474,731	314,756
	$ 2,332,442	$ 2,570,171

The above schedule takes into consideration all renewals and new leases executed subsequent to June 30, 2014 until the date of this report.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL INFORMATION

The following unaudited pro forma condensed consolidated financial statements have been prepared to provide pro forma information with regard to the anticipated acquisition of Northeast Plaza Shopping Center ("the Property"), which Wheeler Real Estate Investment Trust, Inc. and Subsidiaries ("Wheeler REIT" or the "Company"), through Wheeler Real Estate Investment Trust, L.P. ("Operating Partnership"), its majority-owned subsidiary, by exercising its rights under a Contribution and Subscription agreement we expect to enter into with the property's owner for an aggregate purchase price of $4,894,700, which includes the assumption of approximately $3,182,900 in debt. The Contribution and Subscription agreement is expected to replace a Purchase and Sale agreement we previously entered into to acquire the property.

The unaudited pro forma condensed consolidated balance sheet as of June 30, 2014 gives effect to the anticipated acquisition of the Property as if it occurred on June 30, 2014. The Wheeler REIT column as of June 30, 2014 represents the actual balance sheet presented in the Company's Quarterly Report on Form 10-Q ("Form 10-Q") filed on August 14, 2014 with the Securities and Exchange Commission ("SEC") for the period. The pro forma adjustments column includes the preliminary estimated impact of purchase accounting and other adjustments for the year presented.

The unaudited pro forma condensed consolidated statements of operations for the Company and the Property for the three months ended June 30, 2014 and the year ended December 31, 2013 give effect to the Company's acquisition of the Property, as if it had occurred on the first day of the earliest period presented. The Wheeler REIT column for the six months ended June 30, 2014 represents the results of operations presented in the Company's Form 10-Q. The Wheeler REIT column for the year ended December 31, 2013 represents the results of operations presented in the Company's Annual Report on Form 10-K ("Form 10-K") filed with the SEC on March 21, 2014. The Property column includes the full period's operating activity for the Property, as the Property will be acquired subsequent to June 30, 2014 and therefore was not included in the Company's historical financial statements. The pro forma adjustments columns include the impact of purchase accounting and other adjustments for the periods presented.

The unaudited pro forma condensed consolidated financial statements have been prepared by the Company's management based upon the historical financial statements of the Company and of the acquired Property. Assuming the acquisition transaction closes during the third quarter of 2014, the Property will be included in the consolidated financial statements included in the Company's Form 10-Q for the three and nine months ended September 30, 2014, to be filed with the SEC. These pro forma statements may not be indicative of the results that actually would have occurred had the anticipated acquisition been in effect on the dates indicated or which may be obtained in the future.

In management's opinion, all adjustments necessary to reflect the effects of the Property acquisition have been made. These unaudited pro forma condensed consolidated financial statements are for informational purposes only and should be read in conjunction with the historical financial statements of the Company, including the related notes thereto, which were filed with the SEC on March 21, 2014 as part of its Form 10-K for the year ended December 31, 2013 and on August 14, 2014 as part of its Form 10-Q for the three months ended June 30, 2014.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Balance Sheet
As of June 30, 2014
(unaudited)

	Wheeler REIT (A)	Pro Forma Adjustments (B)	Pro Forma Consolidated
ASSETS:			
Net investment properties	$100,553,283	$ 4,248,700	$104,801,983
Cash and cash equivalents	16,243,867	(1,888,900)	14,354,967
Tenant and other receivables	1,663,027	300,000	1,963,027
Deferred costs, reserves, intangibles and other assets	21,692,120	701,000	22,393,120
Total Assets	$140,152,297	$ 3,360,800	$143,513,097
LIABILITIES:			
Mortgages and other indebtedness	$ 95,236,145	$ 3,182,900	$ 98,419,045
Below market lease intangibles	2,610,379	35,000	2,645,379
Accounts payable, accrued expenses and other liabilities	3,361,048	142,900	3,503,948
Total Liabilities	101,207,572	3,360,800	104,568,372
Commitments and contingencies	—	—	—
EQUITY:			
Series A preferred stock	1,458,050	—	1,458,050
Series B convertible preferred stock	18,738,515	—	18,738,515
Common stock	74,218	—	74,218
Additional paid-in capital	28,092,906	—	28,092,906
Accumulated deficit	(16,274,152)	—	(16,274,152)
Noncontrolling interest	6,855,188	—	6,855,188
Total Equity	38,944,725	—	38,944,725
Total Liabilities and Equity	$140,152,297	$ 3,360,800	$143,513,097

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Statement of Operations
For the Six Months Ended June 30, 2014
(unaudited)

	Wheeler REIT (A)	Property (B)	Pro Forma Adjustments (C)	Pro Forma Consolidated
REVENUES:				
Rental income	$ 5,948,100	$237,053	$ 10,030(1)	$ 6,195,183
Tenant reimbursements and other income	1,349,746	15,801	—	1,365,547
Total Revenues	7,297,846	252,854	10,030	7,560,730
OPERATING EXPENSES AND CERTAIN OPERATING EXPENSES OF THE ACQUIRED:				
Property operating	1,832,219	76,692	—	1,908,911
Depreciation and amortization	3,521,546	—	219,223(2)	3,740,769
Provision for credit losses	(28,032)	—	—	(28,032)
Corporate general & administrative	2,217,867	11,109	—	2,228,976
Total Operating Expenses and Certain Operating Expenses of the Acquired	7,543,600	87,801	219,223	7,850,624
Operating Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	(245,754)	165,053	(209,193)	(289,894)
Interest expense	(2,905,575)	—	(78,331)(3)	(2,983,906)
Net Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	$(3,151,329)	$165,053	$ (287,524)	$(3,273,800)

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Pro Forma Condensed Consolidated Statement of Operations
For the Year Ended December 31, 2013
(unaudited)

	Wheeler REIT (D)	Property (E)	Pro Forma Adjustments (C)	Pro Forma Consolidated
REVENUES:				
Rental income	$ 7,158,549	$459,711	$ 20,059(1)	$ 7,638,319
Tenant reimbursements and other income	1,548,943	100,069	—	1,649,012
Total Revenues	8,707,492	559,780	20,059	9,287,331
OPERATING EXPENSES AND CERTAIN OPERATING EXPENSES OF THE ACQUIRED:				
Property operating	1,713,957	118,420	—	1,832,377
Depreciation and amortization	3,466,957	—	438,446(2)	3,905,403
Provision for credit losses	106,828	—	—	106,828
Corporate general & administrative and other	5,297,166	11,961	—	5,309,127
Total Operating Expenses and Certain Operating Expenses of the Acquired	10,584,908	130,381	438,446	11,153,735
Operating Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	(1,877,416)	429,399	(418,387)	(1,866,404)
Interest expense	(2,497,810)	—	(156,662)(3)	(2,654,472)
Net Income (Loss) and Excess of Acquired Revenues Over Certain Operating Expenses	$ (4,375,226)	$429,399	$ (575,049)	$ (4,520,876)

See accompanying notes to unaudited pro forma condensed consolidated financial statements.

Wheeler Real Estate Investment Trust, Inc. and Subsidiaries
Notes to Pro Forma Condensed Consolidated Financial Statements
(unaudited)

Pro Forma Balance Sheet

A. Reflects the unaudited condensed consolidated balance sheet of the Company as of June 30, 2014 included in the Company's Form 10-Q for the three months ended June 30, 2014.

B. Represents the estimated pro forma effect of the Company's $4.90 million anticipated acquisition of the Property, assuming it occurred on June 30, 2014. The Company has initially allocated the purchase price of the acquired Property to land, building and improvements, identifiable intangible assets and to the acquired liabilities based on their preliminary estimated fair values. Identifiable intangibles include amounts allocated to above/below market leases, the value of in-place leases and customer relationships value, if any. The Company determined fair value based on estimated cash flow projections that utilize appropriate discount and capitalization rates and available market information. Estimates of future cash flows are based on a number of factors including the historical operating results, known trends and specific market and economic conditions that may affect the Property. Factors considered by management in its analysis of determining the as-if-vacant property value include an estimate of carrying costs during the expected lease-up periods considering market conditions, and costs to execute similar leases. In estimating carrying costs, management includes real estate taxes, insurance and estimates of lost rentals at market rates during the expected lease-up periods, tenant demand and other economic conditions. Management also estimates costs to execute similar leases including leasing commissions, tenant improvements, legal and other related expenses. Intangibles related to above/below market leases and in-place lease value are recorded as acquired lease intangibles and are amortized as an adjustment to rental revenue or amortization expense, as appropriate, over the remaining terms of the underlying leases.

Pro Forma Statement of Operations

A. Reflects the unaudited condensed consolidated statement of operations of the Company for the six months ended June 30, 2014.

B. Amounts reflect the historical operations of the Property for the six months ended June 30, 2014, unless otherwise noted.

C. Represents the estimated unaudited pro forma adjustments related to the acquisition for the period presented.

(1) Represents estimated amortization of above/below market leases which are being amortized on a straight-line basis over the remaining terms of the related leases.

(2) Represents the estimated depreciation and amortization of the buildings and related improvements, leasing commissions, in place leases and capitalized legal/marketing costs resulting from the preliminary estimated purchase price allocation in accordance with accounting principles generally accepted in the United States of America. The buildings and site improvements are being depreciated on a straight-line basis over their estimated useful lives up to 40 years. The tenant improvements, leasing commissions, in place leases and capitalized legal/marketing costs are being amortized on a straight-line basis over the remaining terms of the related leases.

(3) Represents estimated interest expense on mortgage debt to be assumed as part of the acquisition net of the estimated amortization of the preliminary estimated mortgage debt fair value adjustment. The mortgage debt matures in February 2019 and accrues interest at 6.50% per annum. The fair value adjustment is being amortized on a straight-line basis over the remaining term of the debt.

D. Reflects the consolidated statement of operations of the Company for the year ended December 31, 2013.

E. Amounts reflect the historical operations of the Property for the year ended December 31, 2013, unless otherwise noted.

120,000 Units Consisting of 600,000 Shares of Series B Preferred Stock and Warrants to Purchase 720,000 Shares of Common Stock

PROSPECTUS

Joint Book-Running Managers

Maxim Group LLC **Newbridge Securities Corporation**

The date of this prospectus is , 2014

You should rely only on the information contained in this prospectus. No dealer, salesperson or other person is authorized to make any representations other than those contained in this prospectus, and, if given or made, such information and representations must not be relied upon. This prospectus is not an offer to sell nor is it seeking an offer to buy these securities in any jurisdiction where the offer or sale is not permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or any sale of these securities. You should not assume that the delivery of this prospectus or that any sale made pursuant to this prospectus implies that the information contained in this prospectus will remain fully accurate and correct as of any time subsequent to the date of this prospectus.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 31. Other Expenses of Issuance and Distribution

The following table sets forth the expenses (other than underwriting discounts and commissions) we will incur in connection with the issuance and distribution of the securities to be registered pursuant to this registration statement. All amounts in the table above, except the SEC registration fee and the FINRA filing fee, are estimated.

Securities and Exchange Commission Registration Fee	2,809
FINRA Filing Fee	3,087.50
Printing and Mailing Expenses	65,000*
Blue Sky Filing Fees And Expenses	10,000*
Legal Fees and Expenses	300,000*
Accounting Fees and Expenses	21,000*
Transfer Agent	5,000*
Miscellaneous	15,000*
Total Expenses	$421,896.50*

* Estimated.

Item 32. Sales to Special Parities

None.

Item 33. *Recent Sales of Unregistered Securities*.

On August 2, 2011, we completed a private offering of 126,250 shares of our Series A Preferred Stock at an offering price of $4.00 per share. There were no underwriting discounts or commissions in connection with such issuance and we received proceeds of $505,000. Such shares were purchased by 16 investors, all of whom are “accredited investors” as defined under Regulation D of the Securities Act of 1933. The issuance of such shares was effected in reliance upon exemptions from registration provided by Section 4(2) of the Securities Act of 1933, as amended and Rule 506 of Regulation D promulgated thereunder.

On January 26, 2012, we completed a private offering of 57,250 shares of our Series A Preferred Stock at an offering price of $4.00 per share. There were no underwriting discounts or commissions in connection with such issuance and we received proceeds of $229,000. Such shares were purchased by 10 investors, all of whom are “accredited investors” as defined under Regulation D of the Securities Act of 1933. The issuance of such shares was effected in reliance upon exemptions from registration provided by Section 4(2) of the Securities Act of 1933, as amended and Rule 506 of Regulation D promulgated thereunder.

On April 12, 2012, we completed a private offering of 66,250 shares of our Series A Preferred Stock at an offering price of $4.00 per share. There were no underwriting discounts or commissions in connection with such issuance and we received proceeds of $265,000. Such shares were purchased by 3 investors, all of whom are “accredited investors” as defined under Regulation D of the Securities Act of 1933. The issuance of such shares was effected in reliance upon an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended and Rule 506 of Regulation D promulgated thereunder.

In connection with the formation transactions associated with our initial public offering, our Operating Partnership issued an aggregate of 1,730,129 common units with an aggregate value of approximately $9.1 million, based on the offering price of $5.25 per share, to certain persons owning interests in the entities that owned the properties comprising our portfolio as consideration for such transactions. All such persons had a

substantive, pre-existing relationship with us. There were no underwriting discounts or commissions in connection with the issuance. The issuance of such units was effected in reliance upon an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended and corresponding state securities registration exemptions.

In connection with the Twin City Crossing and Surrey Plaza acquisitions that occurred in December 2012, our Operating Partnership issued 127,929 common units to an aggregate of 29 investors with an aggregate value of approximately $750,000 based on share prices ranging from $5.80 to $5.90. There were no underwriting discounts or commissions in connection with the issuance and our Operating Partnership did not receive any proceeds from the exchange. The issuance of such units was effected in reliance upon and exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended, and corresponding state securities registration exemptions.

On June 10, 2013, we completed a private offering of 4,500 shares of Series A Preferred Stock at an offering price of $1,000.00 per share. In connection with this financing, we paid placement agent fees of $315,000 to MCG Securities-Merion Capital Group. All investors in the private placement were "accredited investors" as defined under Regulation D of the Securities Act of 1933. The issuance of such shares was effected in reliance upon an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended and Rule 506 of Regulation D promulgated thereunder.

On October 21, 2013, pursuant to the terms of the Contribution and Subscription Agreement between the Operating Partnership and 10 investors (the "Contributors"), the Operating Partnership exchanged an aggregate of 169,613 of its common units worth $712,373 for the Contributors' membership interests in Fairfield Investors, LLC, a Virginia limited liability company ("Fairfield"). There were no underwriting discounts or commissions in connection with the issuance and the Operating Partnership did not receive any proceeds from the exchange. The issuance of such units was effected in reliance upon an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended and corresponding state securities registration exemptions.

On December 16, 2013, we completed a private offering, pursuant to which we could issue, in one or more closings on or before January 31, 2014, a maximum of $12.0 million of convertible notes, non-convertible notes and/or warrants to purchase shares of our common stock, $0.01 par value per share. On December 16, 2013, we completed an initial closing (the "First Closing") consisting of the private placement of $6.0 million of convertible notes and $4.0 million of non-convertible notes and warrants to purchase our common stock with eight accredited investors (the "Initial Investors"). Pursuant to a First Amendment to Securities Purchase Agreement, dated as of January 31, 2014 (the "First Amendment"), we and the Initial Investors agreed to increase the maximum size of the offering to an aggregate of $12.16 million. As of January 31, 2014, we completed a second closing (the "Second Closing") consisting of the private placement of $2.160 million of non-convertible notes and warrants to purchase shares of our common stock with fourteen accredited investors (the "Secondary Investors"). Maxim Group, LLC acted as the lead placement agent and Newbridge Securities Corporation acted as co-placement agent for the private placement transaction. Maxim Group, LLC received a commission in the amount of $82,477.50 and Newbridge Securities Corporation received a commission in the amount of $95,697.50. The issuance of such securities was effected in reliance upon an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended and corresponding state securities registration exemptions.

On December 17, 2013, pursuant to the terms of the Contribution and Subscription Agreement, between the Operating Partnership and 10 investors (the "Jenks Contributors"), our Operating Partnership exchanged an aggregate of 44,671 of its common units worth $193,425 for the Jenks Contributors' membership interests in Jenks Plaza Associates, LLC, a Virginia limited liability company ("Jenks"). Further, in February 2014, we exchanged a additional 79 common units worth $3,425 for the Jenks Contributors' membership interests in Jenks. There were no underwriting discounts or commissions in connection with the issuance and the Operating Partnership did not receive any proceeds from the exchange. The issuance of such units was effected in reliance upon an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended and corresponding state securities registration exemptions.

On July 3, 2014, pursuant to the terms of the Contribution and Subscription Agreement between the Operating Partnership and 42 investors (the "PSCS Contributors"), the Operating Partnership exchanged an aggregate of 157,429 of its common units worth $744,639.17 for the PSCS Contributors' membership interests in PSCS Associates, LLC, a Virginia limited liability company ("PSCS"). There were no underwriting discounts or commissions in connection with the issuance and the Operating Partnership did not receive any proceeds from the exchange. The issuance of such units was effected in reliance upon an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended and corresponding state securities registration exemptions.

On July 25, 2014, pursuant to the terms of the Contribution and Subscription Agreement between the Operating Partnership and 8 investors (the "LaGrange Contributors"), the Operating Partnership exchanged an aggregate of 105,843 of its common units worth $492,169.72 for the LaGrange Contributors' membership interests in LaGrange Associates, LLC, a Virginia limited liability company ("LaGrange"). There were no underwriting discounts or commissions in connection with the issuance and the Operating Partnership did not receive any proceeds from the exchange. The issuance of such units was effected in reliance upon an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended and corresponding state securities registration exemptions.

Item 34. Indemnification of Directors and Officers

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty that is established by a final judgment and is material to the cause of action. Our charter contains a provision that eliminates our directors' and officers' liability to the maximum extent permitted by Maryland law.

Maryland law requires a Maryland corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. Maryland law 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 or threatened to be made a party by reason of their service in those or other 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, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received, unless in either case a court orders indemnification and then only for expenses. In addition, Maryland law permits a Maryland corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of (a) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation and (b) a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

Our charter authorizes us, to the maximum extent permitted by Maryland law, to obligate ourselves and our bylaws obligate us, to indemnify any present or former director or officer or any individual who, while a director or officer of our company and at our request, serves or has served as a director, officer, partner, trustee, member or manager of another corporation, real estate investment trust, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity from and against any claim or liability to which that individual may become subject or which that individual may incur by reason of his or her service in any of the

foregoing capacities and to pay or reimburse his or her reasonable expenses in advance of final disposition of a proceeding. Our charter and bylaws also permit us to indemnify and advance expenses to any individual who served a predecessor of our company in any of the capacities described above and any employees or agents of our company or a predecessor of our company. Furthermore, our officers and directors are indemnified against specified liabilities by the underwriters, and the underwriters are indemnified against certain liabilities by us, under the placement agreement relating to this offering. See "Plan of Distribution." In addition, our directors and officers are indemnified for specified liabilities and expenses pursuant to the Partnership Agreement of Wheeler REIT, L.P., the partnership of which we serve as sole general partner.

Item 35. Treatment of Proceeds from Stock Being Registered.

None.

Item 36. Financial Statement and Exhibits

(A) *Financial Statements.* See Audited and Other Financial Information of the Contemplated Acquisitions.

(B) *Exhibits*. The attached Exhibit Index is incorporated herein by reference.

Item 37. 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; (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 Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% 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), (ii) and (iii) above 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 Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this 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, 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; and (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 this offering.

(b) The undersigned registrant hereby undertakes that, for the purpose of determining liability under the Securities Act of 1933 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 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 to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and this 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.

(c) The undersigned registrant hereby undertakes that, for the purpose of determining liability of the registrant under the Securities Act of 1933 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.

(d) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, 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.

(e) The undersigned registrant hereby undertakes to deliver or cause to be delivered with the prospectus, to each person to whom the prospectus is sent or given, the latest annual report to security holders that is incorporated by reference in the prospectus and furnished pursuant to and meeting the requirements of Rule 14a-3 or Rule 14c-3 under the Securities Exchange Act of 1934; and, where interim financial information required to be presented by Article 3 of Regulation S-X are not set forth in the prospectus, to deliver, or cause to be delivered to each person to whom the prospectus is sent or given, the latest quarterly report that is specifically incorporated by reference in the prospectus to provide such interim financial information.

(f) Insofar as indemnification for liabilities arising under the Securities Act of 1933 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 Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than 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 and will be governed by the final adjudication of such issue.

(g) The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus 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.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant certifies that it has reasonable grounds to believe it meets all of the requirements for filing on Form S-11 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Virginia Beach, Commonwealth of Virginia, on the 19 day of August, 2014.

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

By: /s/ JON S. WHEELER
Jon S. Wheeler
Chairman and Chief Executive Officer

POWER OF ATTORNEY

We, the undersigned directors and officers of Wheeler Real Estate Investment Trust, Inc., do hereby constitute and appoint Jon S. Wheeler and Steven M. Belote, and each of them, our true and lawful attorneys-in-fact and agents, to do any and all acts and things in our names and on our behalf in our capacities as directors 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, or any of them, may deem necessary or advisable to enable said Company 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 we hereby ratify and confirm all that said attorneys and agents, or any of them, shall do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act, this registration statement on Form S-11 has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/S/ JON S. WHEELER Jon. S. Wheeler	Chairman of the Board of Directors and Chief Executive Officer (Principal Executive Officer)	August 19, 2014
/S/ STEVEN M. BELOTE Steven M. Belote	Chief Financial Officer (Principal Financing and Accounting Officer)	August 19, 2014
/S/ CHRISTOPHER J. ETTEL Christopher J. Ettel	Director	August 19, 2014
/S/ DAVID KELLY David Kelly	Director	August 19, 2014
/S/ WILLIAM W. KING William W. King	Director	August 19, 2014
/S/ WARREN D. HARRIS Warren D. Harris	Director	August 19, 2014

Signature	Title	Date
/S/ CARL B. MCGOWAN, JR. Carl B. McGowan, Jr.	Director	August 19, 2014
/S/ ANN L. MCKINNEY Ann L. McKinney	Director	August 19, 2014
/S/ JEFFREY ZWERDLING Jeffrey Zwerdling	Director	August 19, 2014

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1.1	Form of Underwriting Agreement, as amended (10)
3.1	Articles of Amendment and Restatement of Wheeler Real Estate Investment Trust, Inc. as amended (1)
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4.1	Form of Certificate of Common Stock of Wheeler Real Estate Investment Trust, Inc. (3)
4.2	Form of Certificate of Series B Convertible Preferred Stock of Wheeler Real Estate Investment Trust, Inc. (4)
4.3	Form of Warrant Certificate of Wheeler Real Estate Investment Trust, Inc. (5)
4.4	Amended and Restated Agreement of Limited Partnership of Wheeler REIT, L.P. (1)
4.5	Form of Warrant Agreement from December 2013/January 2014 private placement offering (1)
5.1	Opinion of Kaufman & Canoles, P.C. (10)
8.1	Opinion of Kaufman & Canoles, P.C. with respect to tax matters (10)
10.1	Wheeler Real Estate Investment Trust, Inc. 2012 Stock Incentive Plan (6)
10.2	Employment Agreement of Jon S. Wheeler (1)
10.3	Employment Agreement with Steven M. Belote (1)
10.4	Employment Agreement with Robin A. Hanisch (1)
10.5	Management Agreement by and between Wheeler Real Estate Investment Trust, Inc., Wheeler Real Estate Investment Trust, L.P. and WHLR Management, LLC (1)
10.6	Subordination Agreement (1)
10.7	Form of Warrant Agreement by and among Wheeler Real Estate Investment Trust, Inc., Computershare, Inc. and Computershare Trust Company, N.A. (7)
21.1	Subsidiaries of Registrant (8)
23.1	Consent of Cherry Bekaert LLP related to Port Crossing Shopping Center, LaGrange Marketplace, Cypress Shopping Center, Harrodsburg Marketplace, Clover Plaza, South Square, Waterway Plaza, Westland Square, and St. George Plaza (1)
23.2	Consent of Cherry Bekaert LLP related to Brook Run Shopping Center, Northeast Plaza Shopping Center, and Freeway Junction (1)
23.3	Consent of Cherry Bekaert LLP related to the Annual Report on Form 10-K of Wheeler Real Estate Investment Trust, Inc. for the fiscal year ended December 31, 2013 (1)
23.4	Consent of Kaufman & Canoles, P.C. (included in Exhibit 5.1) (10)
23.5	Consent of Kaufman & Canoles, P.C. (included in Exhibit 8.1) (10)
24.1	Power of Attorney (previously included on signature page hereof)
99.1	Codes of Business and Ethics (9)

Footnotes

(1) Filed herewith.
(2) Filed as exhibit 3.2 to the Wheeler Real Estate Investment Trust Inc. Registration Statement on Form S-11 (Registration No. 333-177262) previously filed on February 14, 2012 pursuant to the Securities Act of 1933 and hereby incorporated by reference.
(3) Filed as exhibit 4.1 to the Wheeler Real Estate Investment Trust Inc. Registration Statement on Form S-11 (Registration No. 333-177262) previously filed on April 18, 2012 pursuant to the Securities Act of 1933 and hereby incorporated by reference.

(4) Filed as exhibit 4.2 to the Wheeler Real Estate Investment Trust Inc. Registration Statement on Form S-11 (Registration No. 194831) previously filed on April 23, 2014 pursuant to the Securities Act of 1933 and hereby incorporated by reference.
(5) Filed as exhibit 4.3 to the Wheeler Real Estate Investment Trust Inc. Registration Statement on Form S-11 (Registration No. 194831) previously filed on April 23, 2014 pursuant to the Securities Act of 1933 and hereby incorporated by reference.
(6) Filed as exhibit 10.3 to the Wheeler Real Estate Investment Trust Inc. Registration Statement on Form S-11 (Registration No. 333-177262) previously filed on March 19, 2012 pursuant to the Securities Act of 1933 and hereby incorporated by reference.
(7) Filed as exhibit 10.9 to the Wheeler Real Estate Investment Trust Inc. Registration Statement on Form S-11 (Registration No. 194831) previously filed on April 23, 2014 pursuant to the Securities Act of 1933 and hereby incorporated by reference.
(8) Filed as exhibit 21.1 to the Wheeler Real Estate Investment Trust, Inc. Annual Report on Form 10-K, filed on March 21, 2014, and hereby incorporated by reference.
(9) Filed as exhibit 99.1 to the Wheeler Real Estate Investment Trust Inc. Registration Statement on Form S-11 (Registration No. 333-177262) previously filed on October 12, 2011 pursuant to the Securities Act of 1933 and hereby incorporated by reference.
(10) To be filed by amendment.

Exhibit 3.1

WHEELER REAL ESTATE INVESTMENT TRUST, INC.
ARTICLES OF AMENDMENT AND RESTATEMENT

FIRST: Wheeler Real Estate Investment Trust, Inc., a Maryland corporation (the "Corporation"), desires to amend and restate its charter (the "Charter") as currently in effect and as hereinafter amended.

SECOND: The following provisions are all the provisions of the Charter currently in effect and as hereinafter amended:

ARTICLE I

NAME

The name of the Corporation is:

Wheeler Real Estate Investment Trust, Inc.

ARTICLE II

PURPOSE

The purposes for which the Corporation is formed are to engage in any lawful act or activity (including, without limitation or obligation, engaging in business as a real estate investment trust (a "REIT") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended, or any successor statute (the "Code")) for which corporations may be organized under the general laws of the State of Maryland as now or hereafter in force.

ARTICLE III

PRINCIPAL OFFICE IN STATE AND RESIDENT AGENT

The address of the principal office of the Corporation in the State of Maryland is c/o The Corporation Trust Incorporated, 351 West Camden Street, Baltimore, Maryland 21201. The name of the resident agent of the Corporation in the State of Maryland is The Corporation Trust Incorporated, whose post address is 351 West Camden Street, Baltimore, Maryland 21201. The resident agent is a Maryland corporation.

ARTICLE IV

PROVISIONS FOR DEFINING, LIMITING AND REGULATING CERTAIN POWERS OF THE CORPORATION AND OF THE STOCKHOLDERS AND DIRECTORS

Section 4.1 *Number of Directors*. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The number of directors of the Corporation is eight (8), which number may be increased or decreased only by the Board of Directors pursuant to the Bylaws of the Corporation (the "Bylaws"), but shall never be less than the minimum number required by the Maryland General Corporation Law (the "MGCL"). The name of the directors who shall serve until the next annual meeting of stockholders and until their successors are duly elected and qualify are:

Jon S. Wheeler
Christopher J. Ettel
David Kelly
William W. King
Warren D. Harris
Carl B. McGowan, Jr
Ann L. McKinney
Jeffrey Zwerdling

The Board of Directors may increase or decrease the number of directors and may fill any vacancy, whether resulting from an increase in the number of directors or otherwise, on the Board of Directors in the manner provided in the Bylaws.

The Corporation elects, at such time as it becomes eligible under Section 3-802 of the MGCL to make the election provided for under Section 3-804(c) of the MGCL, that, except as may be provided by the Board of Directors in setting the terms of any class or series of stock, any and all vacancies on the Board of Directors may be filled only by the affirmative vote of a majority of the remaining directors in office, even if the remaining directors do not constitute a quorum, and any director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which such vacancy occurred.

Section 4.2 *Extraordinary Actions*. Except as specifically provided in Section 4.8 of this Article IV (relating to removal of directors), notwithstanding any provision of law permitting or requiring any action to be taken or approved by the affirmative vote of the holders of shares entitled to cast a greater number of votes, any such action shall be effective and valid if declared advisable by the Board of Directors and 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 4.3 *Authorization by Board of Stock Issuance*. The Board of Directors may authorize the issuance from time to time of shares of stock of the Corporation of any class or series, whether now or hereafter authorized, or securities or rights convertible into shares of its stock of any class or series, whether now or hereafter authorized, for such consideration as the Board of Directors may deem advisable (or without consideration in the case of a stock split or stock dividend), subject to such restrictions or limitations, if any, as may be set forth in the MGCL, the Charter or the Bylaws.

Section 4.4 *Preemptive and Appraisal Rights*. Except as may be provided by the Board of Directors in setting the terms of classified or reclassified shares of stock pursuant to Section 6.4 or as may otherwise be provided by a contract approved by the Board of Directors, no holder of shares of stock of the Corporation shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Corporation or any other security of the Corporation which it may issue or sell. Holders of shares of stock shall not be entitled to exercise any rights of an objecting stockholder provided for under Title 3, Subtitle 2 of the MGCL or any successor statute unless the Board of Directors, upon the affirmative vote of a majority of the Board of Directors, shall determine that such rights apply, with respect to all or any classes or series of stock, to one or more transactions occurring after the date of such determination in connection with which holders of such shares would otherwise be entitled to exercise such rights.

Section 4.5 *Indemnification*. The Corporation 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 director or officer of the Corporation or (b) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner, member, manager or trustee of another corporation, real estate investment trust, partnership, limited liability company, 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 service in such capacity. The Corporation shall have the power, with the approval of the Board of Directors, to provide such indemnification and advancement of expenses to a person who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation.

Section 4.6 *Determinations by Board*. The determination as to any of the following matters, made in good faith by or pursuant to the direction of the Board of Directors consistent with the Charter, shall be final and conclusive and shall be binding upon the Corporation and every holder of shares of its stock: (i) the amount of the net income of the Corporation for any period and the amount of assets at any time legally available for the payment of dividends, redemption of its stock or the payment of other distributions on its stock; (ii) the amount of paid-in surplus, net assets, other surplus, annual or other cash flow, funds from operations, net profit, net assets in excess of capital, undivided profits or excess of profits over losses on sales of assets; (iii) the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof

(whether or not any obligation or liability for which such reserves or charges shall have been created shall have been paid or discharged); (iv) any interpretation of the terms, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of any class or series of stock of the Corporation; (v) the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Corporation or of any shares of stock of the Corporation; (vi) the number of shares of stock of any class of the Corporation; (vii) any matter relating to the acquisition, holding and disposition of any assets by the Corporation; or (viii) any other matter relating to the business and affairs of the Corporation or required or permitted by applicable law, the Charter or Bylaws or otherwise to be determined by the Board of Directors.

Section 4.7 *REIT Qualification*. If the Corporation elects to qualify as a REIT for U.S. federal income tax purposes, the Board of Directors shall take such actions as it determines are necessary or appropriate to preserve the status of the Corporation as a REIT; however, if the Board of Directors determines that it is no longer in the best interests of the Corporation to continue to be qualified as a REIT, the Board of Directors may revoke or otherwise terminate the Corporation's REIT election pursuant to Section 856(g) of the Code. The Board of Directors also may determine that compliance with one or more of the restrictions or limitations on stock ownership and transfers set forth in Article VI is no longer required for REIT qualification.

Section 4.8 *Removal of Directors*. Any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and then only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. For the purpose of this paragraph, "cause" shall mean, with respect to any particular director, conviction of a felony or a final judgment of a court of competent jurisdiction holding that such director caused demonstrable, material harm to the Corporation through bad faith or active and deliberate dishonesty.

ARTICLE V

STOCK

Section 5.1 *Authorized Shares*. The Corporation has authority to issue 80,000,000 shares of stock, consisting of 75,000,000 shares of Common Stock, $0.01 par value per share ("Common Stock"), and 5,000,000 shares of Preferred Stock, without par value per share ("Preferred Stock"). The aggregate par value of all authorized shares of stock having par value is $750,000. If shares of one class of stock are classified or reclassified into shares of another class of stock pursuant to Section 5.2, 5.3 or 5.4 of this Article V, 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 stock of all classes that the Corporation has authority to issue shall not be more than the total number of shares of stock set forth in the first sentence of this paragraph. The Board of Directors, with the approval of a majority of the entire Board and without any action by the stockholders of the Corporation, may amend the Charter from time to time to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that the Corporation has authority to issue.

Section 5.2 *Common Stock*. Subject to the provisions of Article VI and except as may otherwise be specified in the terms of any class or series of Common Stock, each share of Common Stock shall entitle the holder thereof to one vote. The Board of Directors may reclassify any unissued shares of Common Stock from time to time in one or more classes or series of stock.

Section 5.3 *Preferred Stock*. The Board of Directors may classify any unissued shares of Preferred Stock and reclassify any previously classified but unissued shares of Preferred Stock of any series from time to time, in one or more classes or series of stock.

Section 5.3.1 *Preference*. The preference of each share of Preferred Stock with respect to dividend payments and distribution of the Corporation's assets upon redemption and upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation shall be prior in right to such preferences of all other equity securities of the Corporation, including, without limitation, the Common Stock, whether now or hereafter authorized.

Section 5.3.2 *Dividends*. When and if declared by the Board of Directors of the Corporation out of funds legally available therefor, the holders of shares of Preferred Stock shall be entitled to receive prior to and in preference of any dividends declared, paid upon or set aside for the Common Stock of the Corporation in any such year, dividends in cash, stock or otherwise. Any dividends declared but not paid shall be cumulative. No deposit, payment, dividend or distribution of any kind shall be made with respect to the Common Stock unless all dividends payable on the Preferred Stock have been paid.

Section 5.3.3 *Liquidation*. In the event of (i) any voluntary or involuntary liquidation, winding up or dissolution of the Corporation or (ii) any sale or transfer by the Corporation of all or substantially all of its assets, the holders of Preferred Stock shall be entitled to receive, prior to and in preference of any distribution or payment upon the Common Stock, an amount per share of Preferred Stock equal to the sum of the Preferred Stock purchase price plus any accrued but unpaid dividends thereon. To the extent the assets and funds available for distribution after payment of all required obligations of the Corporation are insufficient to make such payment, then the entire assets and funds available for distribution shall be distributed ratably among the holders of the Preferred Stock. Any amounts remaining after payment in full of the holders of the Preferred Stock shall be distributed ratably among the holders of the Common Stock.

Series A Preferred Stock

Section 5.3.4 *Designation and Number*. A series of Preferred Stock, designated the "Series A Preferred Stock" (the "Series A Preferred Stock"), is hereby established. The number of shares of the Series A Preferred Stock shall be 4,500.

Section 5.3.5 *Rank*. The Series A Preferred Stock shall, with respect to rights to the payment of dividends and the distribution of assets upon the liquidation, dissolution or winding up of the Corporation, rank (a) senior to all classes or series of Common Stock and any other class or series of stock of the Corporation the terms of which specifically provide that the holders of the Series A Preferred Stock are entitled to receive dividends or amounts distributable upon the liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of shares of such class or series; (b) on a parity with any class or series of stock of the Corporation the terms of which specifically provide that the holders of such class or series of stock and the Series A Preferred Stock are entitled to receive dividends and amounts distributable upon the liquidation, dissolution or winding up of the Corporation in proportion to their respective amounts of accumulated, accrued and unpaid dividends per share or liquidation preferences, without preference or priority of one over the other; (c) junior to any class or series of stock of the Corporation the terms of which specifically provide that the holders of such class or series are entitled to receive dividends or amounts distributable upon the liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of the Series A Preferred Stock; and (d) effectively junior to all of our existing and future indebtedness (including indebtedness convertible to our Common Stock or Preferred Stock) and to the indebtedness of our existing subsidiary and any future subsidiaries.

Section 5.3.6 *Dividends*.

(a) Subject to the preferential rights of holders of any class or series of senior stock, holders of Series A Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds legally available for the payment of dividends, cash dividends at the rate of [ ]% per annum. The dividends on each share of Series A Preferred Stock shall accrue and shall be cumulative from the first date on which such share of Series A Preferred Stock is issued and shall be payable quarterly in arrears on or before the fifteenth day of each January, April, July and October of each year or, if not a Business Day, the next succeeding Business Day (each, a "Series A Dividend Payment Date"). Any dividend payable on the Series A Preferred Stock for any partial Dividend Period shall be computed ratably on the basis of a 360-day year consisting of twelve 30-day months. Dividends shall be payable in arrears to holders of record as they appear in the stock records of the Corporation at the close of business on the applicable record date or dates, which shall be each day of the calendar quarter immediately preceding the calendar quarter in which the applicable Series A Dividend Payment Date falls or such other date or dates designated by the Board of Directors for the determination of the holders of Series A Preferred Stock entitled to receive dividends that is or are not more than 90 days prior to such Series A Dividend Payment Date or the date on which such dividends are set aside for payment (each, a "Series A Dividend Record Date"). The term "Dividend Period" shall mean the first day of each calendar quarter through and including the last day of such calendar quarter.

(b) Holders of Series A Preferred Stock shall not be entitled to any dividends in excess of cumulative dividends, as herein provided, on the Series A Preferred Stock.

(c) 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 Stock that may be in arrears.

(d) When dividends are not paid in full upon the Series A Preferred Stock or any other class or series of parity stock, or a sum sufficient for such payment is not set apart, all dividends declared upon the Series A Preferred Stock and any shares of parity stock shall be declared ratably in proportion to the respective amounts of dividends accumulated, accrued and unpaid on the Series A Preferred Stock and accumulated, accrued and unpaid on such parity stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods if such parity stock does not have a cumulative dividend).

(e) Except as set forth in the preceding paragraph, unless full cumulative dividends equal to the full amount of all accumulated, accrued and unpaid dividends on the Series A Preferred Stock have been, or are concurrently therewith, declared and paid or declared and set apart for payment for all past Dividend Periods, no dividends (other than dividends or distributions paid in shares of junior stock or options, warrants or rights to subscribe for or purchase shares of junior stock) shall be declared and paid or declared and set apart for payment by the Corporation and no other distribution of cash or other property may be declared and made, directly or indirectly, by the Corporation with respect to any shares of junior stock or parity stock, nor shall any shares of junior stock or parity stock be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of Common Stock made for purposes of an employee incentive or benefit plan of the Corporation) for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any shares of any such stock), directly or indirectly, by the Corporation (except by conversion into or exchange for shares of junior stock or options, warrants or rights to subscribe for or purchase shares of junior stock), nor shall any other cash or other property be paid or distributed to or for the benefit of holders of shares of junior stock or parity stock.

(f) Notwithstanding the foregoing provisions of this Section 5.3.6, the Corporation shall not be prohibited from (i) declaring or paying or setting apart for payment any dividend or other distribution on any shares of junior stock or parity stock or (ii) redeeming, purchasing or otherwise acquiring any junior stock or parity stock, in each case, if such declaration, payment, setting apart for payment, redemption, purchase or other acquisition is necessary in order to maintain the continued qualification of the Corporation as a REIT under Section 856 of the Code.

Section 5.3.7 *Liquidation Preference.*

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, before any payment or distribution by the Corporation shall be made to or set apart for the holders of any shares of junior stock, the holders of shares of the Series A Preferred Stock shall be entitled to be paid out of the assets of the Corporation that are legally available for distribution to the stockholders, a liquidation preference of $1,000 per share (the "Liquidation Preference"), plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not declared) to and including the date of payment. Until the holders of the Series A Preferred Stock have been paid the Liquidation Preference in full, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not earned or declared) to the date of final distribution to such holders, no payment will be made to any holder of junior stock upon the liquidation, dissolution or winding up of the Corporation. If upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the available assets of the Corporation, or proceeds thereof, distributable among the holders of the Series A Preferred Stock shall be insufficient to pay in full the above described Liquidation Preference and the liquidating payments on any shares of any class or series of parity stock, then such assets, or the proceeds thereof, shall be distributed among the holders of the Series A Preferred Stock and any such parity stock ratably in the same proportion as the respective amounts that would be payable on such Series A Preferred Stock and any such parity stock if all amounts payable thereon were paid in full. After payment of the full amount of the Liquidation Preference to which they are entitled, the holders of the Series A Preferred Stock shall have no right or claim to any of the remaining assets of the Corporation.

(b) Upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of the Series A Preferred Stock and any parity stock, the holders of any classes or series of junior stock shall be entitled to receive any and all assets of the Corporation remaining to be paid or distributed and the holders of the Series A Preferred Stock and any parity stock shall not be entitled to share therein.

(c) Neither the consolidation or merger of the Corporation with or into any other corporation, trust or entity or of any other corporation, trust or entity with or into the Corporation, nor the sale or transfer of any or all of the assets or business of the Corporation, nor a statutory share exchange shall be deemed to constitute a voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

(d) In determining whether a distribution (other than upon voluntary or involuntary liquidation), by dividend, redemption or other acquisition of shares of stock of the Corporation or otherwise, is permitted under the Maryland Corporation Law, amounts that would be needed, if the Corporation were to be dissolved at the time of distribution, to satisfy the preferential rights upon dissolution of holders of shares of the Series A Preferred Stock shall not be added to the Corporation's total liabilities.

Section 5.3.8 *Redemption*.

(a) The Corporation may, at its option, redeem shares of Series A Preferred Stock, in whole or from time to time, in part, for cash at a redemption price of $1,030 per share, plus all accumulated, accrued and unpaid dividends, if any, to and including the date fixed for redemption (the "Redemption Date").

(b) In the event of a redemption of shares of the Series A Preferred Stock, if the Redemption Date occurs after a Series A Dividend Record Date and on or prior to the related Series A Dividend Payment Date, the dividend payable on such Series A Dividend Payment Date in respect of such shares called for redemption shall be payable on such Series A Dividend Payment Date to the holders of record at the close of business on such Series A Dividend Record Date, and shall not be payable as part of the redemption price for such shares.

(c) The Redemption Date shall be selected by the Corporation and shall be not less than 30 days nor more than 60 days after the date on which the Corporation sends the notice of redemption.

(d) If full cumulative dividends on all outstanding shares of Series A Preferred Stock have not been declared and paid or declared and set apart for payment for all past Dividend Periods, no shares of Series A Preferred Stock may be redeemed unless all outstanding shares of Series A Preferred Stock are simultaneously redeemed.

(e) If fewer than all of the outstanding shares of Series A Preferred Stock are to be redeemed, the Corporation shall select those shares to be redeemed pro rata.

(f) Upon the Corporation's provision of written notice as to the effective date of the redemption, accompanied by a check in the amount of the full redemption price, plus all accumulated, accrued and unpaid dividends, if any, to and including the Redemption Date, to which each record holder of Series A Preferred Stock is entitled, the Series A Preferred Stock shall be redeemed and shall no longer be deemed outstanding shares of stock of the Corporation and all rights of the holders of such shares will terminate. Such notice shall be given by first class mail, postage pre-paid, to each record holder of the Series A Preferred Stock at the respective mailing addresses of such holders as the same shall appear on the stock transfer records of the Corporation. No failure to give such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for the redemption of any shares of Series A Preferred Stock except as to the holder to whom notice was defective or not given.

(g) In addition to any information required by law or by the applicable rules of any exchange upon which Series A Preferred Stock may be listed or admitted to trading, such notice shall state: (i) the Redemption Date; (ii) the redemption price payable on the Redemption Date; and (iii) that dividends on the shares to be redeemed will cease to accrue on such Redemption Date. If less than all of the shares of Series A Preferred Stock held by any holder are to be redeemed, the notice mailed to such holder shall also specify the number of shares of Series A Preferred Stock held by such holder to be redeemed.

(h) If notice of redemption of any shares of Series A Preferred Stock has been given and if the funds necessary for such redemption have been set apart by the Corporation for the benefit of the holders of any shares of Series A Preferred Stock so called for redemption, then, from and after the Redemption Date, dividends will cease to accrue on such shares of Series A Preferred Stock, such shares of Series A Preferred Stock shall be redeemed in accordance with the notice and shall no longer be deemed outstanding and all rights of the holders of such shares will terminate, except the right to receive the cash payable upon such redemption without interest thereon. No further action on the part of the holders of such shares shall be required.

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

(j) Any shares of Series A Preferred Stock that shall at any time have been redeemed or otherwise acquired by the Corporation shall, after such redemption or acquisition, have the status of authorized but unissued Preferred Shares, without designation as to series until such shares are once more classified and designated as part of a particular class or Series by the Board of Directors.

Section 5.3.9 *Voting Rights*. The holders of shares of Series A Preferred Stock shall have no voting rights.

Series B Preferred Stock

Section 5.3.10 *Designation and Number*. A series of Preferred Stock, designated the "Series B Preferred Stock" (the "Series B Preferred Stock"), is hereby established. The number of shares of the Series B Preferred Stock shall be 2,000,000.

Section 5.3.11 *Maturity.* The Series B Preferred Stock has no stated maturity and will not be subject to any sinking fund or mandatory redemption. Shares of the Series B Preferred Stock will remain outstanding indefinitely unless they become convertible and are converted as described below in Section 5.3.14 under "*Voluntary Conversion*" and "*Mandatory Conversion*."

Section 5.3.12 *Rank.* The Series B Preferred Stock shall, with respect to rights to the payment of dividends and the distribution of assets upon the liquidation, dissolution or winding up of the Corporation, rank (a) senior to all classes or series of Common Stock and any other class or series of stock of the Corporation the terms of which specifically provide that the holders of the Series B Preferred Stock are entitled to receive dividends or amounts distributable upon the liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of shares of such class or series; (b) on a parity with our Series A Preferred Stock and all equity securities issued by us with terms specifically providing that those equity securities rank on a parity with the Series B Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up up of the Corporation in proportion to their respective amounts of accumulated, accrued and unpaid dividends per share or liquidation preferences, without preference or priority of one over the other; (c) junior to any class or series of stock of the Corporation the terms of which specifically provide that the holders of such class or series are entitled to receive dividends or amounts distributable upon the liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of the Series B Preferred Stock; and (d) effectively junior to all of our existing and future indebtedness (including indebtedness convertible to our Common Stock or Preferred Stock) and to the indebtedness of our existing subsidiary and any future subsidiaries.

Section 5.3.13 *Dividends.*

(a) Subject to the preferential rights of holders of any class or series of senior stock, holders of Series B Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds legally available for the payment of dividends, cash dividends at the rate of 9% per annum. The dividends on each share of Series B Preferred Stock shall accrue and shall be cumulative from the first date on which such share of Series B Preferred Stock is issued and shall be payable quarterly in arrears on or before the fifteenth day of each January, April, July and October of each year or, if not a Business Day, the next succeeding Business Day (each, a "Series B Dividend Payment Date"). Any dividend payable on the Series B Preferred Stock

for any partial Dividend Period shall be computed ratably on the basis of a 360-day year consisting of twelve 30-day months. Dividends shall be payable in arrears to holders of record as they appear in our stock records at the close of business on the applicable record date or dates, which shall be each day of the calendar quarter immediately preceding the calendar quarter in which the applicable Series B Dividend Payment Date falls or such other date or dates designated by the Board of Directors for the determination of the holders of Series B Preferred Stock entitled to receive dividends that is or are not more than 90 days prior to such Series B Dividend Payment Date or the date on which such dividends are set aside for payment (each, a "Series B Dividend Record Date"). The term "Dividend Period" shall mean the first day of each calendar quarter through and including the last day of such calendar quarter.

(b) Holders of Series B Preferred Stock shall not be entitled to any dividends in excess of cumulative dividends, as herein provided, on the Series B Preferred Stock.

(c) No interest, or sum of money in lieu of interest, shall be payable in respect to any dividend payment or payments on the Series B Preferred Stock that may be in arrears.

(d) When dividends are not paid in full upon the Series B Preferred Stock or any other class or series of parity stock, or a sum sufficient for such payment is not set apart, all dividends declared upon the Series B Preferred Stock and any shares of parity stock shall be declared ratably in proportion to the respective amounts of dividends accumulated, accrued and unpaid on the Series B Preferred Stock and accumulated, accrued and unpaid on such parity stock (which shall not include any accumulation in respect of unpaid dividends for prior Dividend Periods if such parity stock does not have a cumulative dividend).

(e) Except as set forth in the preceding paragraph, unless full cumulative dividends equal to the full amount of all accumulated, accrued and unpaid dividends on the Series B Preferred Stock have been, or are concurrently therewith, declared and paid or declared and set apart for payment for all past Dividend Periods, no dividends (other than dividends or distributions paid in shares of junior stock or options, warrants or rights to subscribe for or purchase shares of junior stock) shall be declared and paid or declared and set apart for payment and no other distribution of cash or other property may be declared and made, directly or indirectly, by the Corporation with respect to any shares of junior stock or parity stock, nor shall any shares of junior stock or parity stock be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of Common Stock made for purposes of an employee incentive or benefit plan) for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any shares of any such stock), directly or indirectly, by the Corporation (except by conversion into or exchange for shares of junior stock or options, warrants or rights to subscribe for or purchase shares of junior stock), nor shall any other cash or other property be paid or distributed to or for the benefit of holders of shares of junior stock or parity stock.

(f) Notwithstanding the foregoing provisions of this Section 5.3.14, the Corporation shall not be prohibited from (i) declaring or paying or setting apart for payment any dividend or other distribution on any shares of junior stock or parity stock or (ii) redeeming, purchasing or otherwise acquiring any junior stock or parity stock, in each case, if such declaration, payment, setting apart for payment, redemption, purchase or other acquisition is necessary in order to maintain our continued qualification as a REIT under Section 856 of the Code.

(g) In determining whether a distribution (other than upon voluntary or involuntary liquidation) by dividend, redemption or other acquisition of our shares of capital stock or otherwise is permitted under Maryland law, no effect shall be given to amounts that would be needed, if we were to be dissolved at the time of the distribution, to satisfy the preferential rights upon distribution of holders of shares of capital stock whose preferential rights upon distribution are superior to those receiving the distribution.

Section 5.3.14 *Conversion.* The holders of the Series B Preferred Stock shall have the following conversion rights , subject to the Common Stock Ownership Limit (as defined below in Section 6.1):

(a) V*oluntary Conversion.* The Series B Preferred Stock is convertible, in whole or in part, at any time, at the option of the holders thereof, into authorized but previously unissued Common Stock at a conversion price of $5.00 per share of Common Stock, subject to adjustment as described below. Conversion of Series B Preferred Stock or a specified portion thereof, may be effected by delivering certificates evidencing such shares, together with written notice of conversion and a proper assignment of such certificate to us or in blank, to the office

or agency to be maintained by us for that purpose. Currently, such office is Computershare, 250 Royall Street, Canton, Massachusetts 02021, the transfer agent, registrar, dividend disbursing agent and conversion agent for the Series B Preferred Stock. Each conversion will be deemed to have been effected on the date immediately following the next Series B Dividend Record Date after which the certificates for Series B Preferred Stock shall have been surrendered and notice shall have been received by us as described above (and if applicable, payment of any amount equal to the dividend payable on such shares shall have been received by us as described below) and the conversion shall be at the conversion price in effect at such time and on such date. Fractional shares of Common Stock will not be issued upon conversion but, in lieu thereof, we will pay a cash adjustment based on the closing price of the Common Stock on the trading day immediately preceding the conversion date.

(b) *Mandatory Conversion*. To the extent (a) the Common Stock is traded on a national securities exchange and (b) the 20-trading day volume-weighted average closing price of our Common Stock on such national securities exchange exceeds $7.25 per share, each share of Series B Preferred Stock will automatically, as of the date that immediately follows the next Series B Dividend Record Date, convert into shares of Common Stock at a conversion price equal to $5.00 per share, subject to adjustment as described below.

(c) *Conversion Price Adjustments*. The conversion price is subject to adjustment upon certain events, including (i) the payment of dividends (and other distributions) payable in Common Stock on any class or series of capital stock, (ii) the issuance to all holders of Common Stock of certain rights or warrants entitling them to subscribe for or purchase Common Stock at a price per share less than the fair market value (as defined in the terms of the Series B Preferred Stock) per share of Common Stock, (iii) subdivisions, combinations and reclassifications of Common Stock and (iv) distributions to all holders of Common Stock of any shares of stock (excluding Common Stock) or evidence of our indebtedness or assets (including securities, but excluding those dividends, rights, warrants and distributions referred to in clause (i), (ii) or (iii) above and dividends and distributions paid in cash). In addition to the foregoing adjustments, we will be permitted to make such reduction in the conversion price as our Board of Directors considers to be advisable in order that any event treated for federal income tax purposes as a dividend of shares or share rights will not be taxable to the holders of our Common Stock or, if that is not possible, to diminish any income taxes that are otherwise payable because of such event.

In case we shall be a party to any transaction (including, without limitation, a merger, consolidation, statutory share exchange, tender offer for all or substantially all of our Common Stock or sale of all or substantially all of our assets), in each case as a result of which shares of Common Stock will be converted into the right to receive stock, securities or other property (including cash or any combination thereof), each share of Series B Preferred Stock, if convertible after the consummation of the transaction, will thereafter be convertible into the kind and amount of capital stock, securities and other property receivable (including cash or any combination thereof) upon the consummation of such transaction by a holder of that number of shares of Common Stock or fraction thereof into which one share of Series B Preferred Stock was convertible immediately prior to such transaction (assuming such holder of Common Stock failed to exercise any rights of election and received per share of Common Stock the kind and amount of capital stock, securities or other property received per share of Common Stock by a plurality of non-electing shares of Common Stock). We may not become a party to any such transaction unless the terms thereof are consistent with the foregoing.

No adjustment of the conversion price is required to be made unless such adjustment would require a cumulative increase or decrease of at least 1% or more of the conversion price. Any adjustments not so required to be made will be carried forward and taken into account in subsequent adjustments; provided, however, that any such adjustments will be made not later than such time as may be required to preserve the tax-free nature of a distribution to the holders of our Common Stock. The conversion price will not be adjusted:

- upon the issuance of any Common Stock or rights to acquire Common Stock pursuant to any present or future employee, director or consultant incentive or benefit plan or program for us or any of our subsidiaries;
- upon the issuance of any Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on our securities and the investment of additional optional amounts in Common Stock under any plan;

- for a change in the par value of our Common Stock; or
- for accumulated and unpaid dividends.

Section 5.3.15 *Liquidation Preference*.

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, before any payment or distribution by the Corporation shall be made to or set apart for the holders of any shares of junior stock, the holders of shares of the Series B Preferred Stock shall be entitled to be paid out of the assets of the Corporation that are legally available for distribution to the stockholders, a liquidation preference of $5.00 per share, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not declared) to and including the date of payment. Until the holders of the Series B Preferred Stock have been paid the liquidation preference in full, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not earned or declared) to the date of final distribution to such holders, no payment will be made to any holder of junior stock upon the liquidation, dissolution or winding up of the Corporation. If upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the available assets of the Corporation, or proceeds thereof, distributable among the holders of the Series B Preferred Stock shall be insufficient to pay in full the above described liquidation preference and the liquidating payments on any shares of any class or series of parity stock, then such assets, or the proceeds thereof, shall be distributed among the holders of the Series B Preferred Stock and any such parity stock ratably in the same proportion as the respective amounts that would be payable on such Series B Preferred Stock and any such parity stock if all amounts payable thereon were paid in full. After payment of the full amount of the liquidation preference to which they are entitled, the holders of the Series B Preferred Stock shall have no right or claim to any of the remaining assets of the Corporation.

(b) Upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of the Series B Preferred Stock and any parity stock, the holders of any classes or series of junior stock shall be entitled to receive any and all assets of the Corporation remaining to be paid or distributed and the holders of the Series B Preferred Stock and any parity stock shall not be entitled to share therein.

(c) Neither the consolidation or merger of the Corporation with or into any other corporation, trust or entity or of any other corporation, trust or entity with or into the Corporation, nor the sale or transfer of any or all of the assets or business of the Corporation, nor a statutory share exchange shall be deemed to constitute a voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

(d) In determining whether a distribution (other than upon voluntary or involuntary liquidation), by dividend, redemption or other acquisition of shares of stock of the Corporation or otherwise, is permitted under the Maryland Corporation Law, amounts that would be needed, if the Corporation were to be dissolved at the time of distribution, to satisfy the preferential rights upon dissolution of holders of shares of the Series B Preferred Stock shall not be added to the Corporation's total liabilities.

Section 5.3.16 *Voting Rights*. Holders of the Series B Preferred Stock will not have voting rights, except as required by law.

Section 5.3.17 *Preemptive Rights*. No holder of Series B Preferred Stock shall be entitled to any preemptive rights to subscribe for or acquire any unissued Preferred Stock (whether now or hereafter authorized) or our securities convertible into or carrying a right to subscribe to or acquire our capital stock.

Section 5.3.18 *Redemption*. The Series B Preferred Stock have no redemption rights.

Section 5.4 *Classified or Reclassified Shares*. Prior to issuance of classified or reclassified shares of any class or series, the Board of Directors by resolution shall: (a) designate that class or series to distinguish it from all other classes and series of stock of the Corporation; (b) specify the number of shares to be included in the class or series; (c) set or change, subject to the provisions of Article VI and subject to the express terms of any class or series of stock of the Corporation outstanding at the time, the preferences, conversion or other rights, voting powers, restrictions, including, without limitation, restrictions on transferability, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption for each class or series; and (d) cause the

Corporation to file articles supplementary with the State Department of Assessments and Taxation of Maryland ("SDAT"). Any of the terms of any class or series of stock set or changed pursuant to clause (c) of this Section 5.4 may be made dependent upon facts or events ascertainable outside the Charter (including determinations by the Board of Directors or other facts or events within the control of the Corporation) and may vary among holders thereof, provided that the manner in which such facts, events or variations shall operate upon the terms of such class or series of stock is clearly and expressly set forth in the articles supplementary or other charter document.

Section 5.5 *Charter and Bylaws*. The rights of all stockholders and the terms of all stock are subject to the provisions of the Charter and the Bylaws.

Section 5.6 *Stockholders' Consent in Lieu of Meeting*. Any action required or permitted to be taken at any meeting of stockholders may be taken without a meeting if a unanimous written consent setting forth the action is given in writing or by electronic transmission by each stockholder entitled to vote on the matter and filed with the minutes of proceedings of the stockholders.

ARTICLE VI

RESTRICTION ON TRANSFER AND OWNERSHIP OF SHARES

Section 6.1 *Definitions*. For the purpose of this Article VI, the following terms shall have the following meanings:

Aggregate Stock Ownership Limit. The term "Aggregate Stock Ownership Limit" shall mean not more than 9.8% in value of the aggregate of the outstanding shares of Capital Stock, subject to adjustment from time to time by the Board of Directors in accordance with Section 6.2.8, excluding any such outstanding Common Stock which is not treated as outstanding for federal income tax purposes. Notwithstanding the foregoing, for purposes of determining the percentage ownership of Capital Stock by any Person, shares of Capital Stock that are treated as Beneficially Owned or Constructively Owned by such Person shall be deemed outstanding. The value of the outstanding shares of Capital Stock shall be determined by the Board of Directors in good faith, which determination shall be conclusive for all purposes hereof.

Beneficial Ownership. The term "Beneficial Ownership" shall mean ownership of shares of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that are actually owned or would be treated as owned through the application of Section 544 of the Code, as modified by Sections 856(h)(1)(B) and 856(h)(3) 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.

Capital Stock. The term "Capital Stock" shall mean all classes or series of stock of the Corporation, including, without limitation, Common Stock and Preferred Stock.

Charitable Beneficiary. The term "Charitable Beneficiary" shall mean one or more beneficiaries of the Trust as determined pursuant to Section 6.3.6, 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.

Common Stock Ownership Limit. The term "Common Stock Ownership Limit" shall mean 9.8% (in value or in number of shares, whichever is more restrictive, and subject to adjustment from time to time by the Board of Directors in accordance with Section 6.2.8) of the aggregate of the outstanding shares of Common Stock of the Corporation, excluding any such outstanding Common Stock which is not treated as outstanding for federal income tax purposes. Notwithstanding the foregoing, for purposes of determining the percentage ownership of Common Stock by any Person, shares of Common Stock that are treated as Beneficially Owned or Constructively Owned by

such Person shall be deemed to be outstanding. The number and value of shares of outstanding Common Stock of the Corporation shall be determined by the Board of Directors in good faith, which determination shall be conclusive for all purposes hereof.

Constructive Ownership. The term "Constructive Ownership" shall mean ownership of shares of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that are actually owned or 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.

Excepted Holder. The term "Excepted Holder" shall mean any stockholder of the Corporation for whom an Excepted Holder Limit is created by the Board of Directors pursuant to Section 6.2.7.

Excepted Holder Limit. The term "Excepted Holder Limit" shall mean for each Excepted Holder, the percentage limit established by the Board of Directors for such Excepted Holder pursuant to Section 6.2.7, which limit may be expressed, in the discretion of the Board of Directors, as one or more percentages and/or numbers of shares of Capital Stock, and may apply with respect to one or more classes of Capital Stock or to all classes of Capital Stock in the aggregate, provided that the affected Excepted Holder agrees to comply with the requirements established by the Board of Directors pursuant to Section 6.2.7 and subject to adjustment pursuant to Section 6.2.8.

Individual. The term "Individual" means an individual, a trust qualified under Section 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, or a private foundation within the meaning of Section 509(a) of the Code, provided that, except as set forth in Section 856(h)(3)(A)(ii) of the Code, a trust described in Section 401(a) of the Code and exempt from tax under Section 501(a) of the Code shall be excluded from this definition.

Initial Date. The term "Initial Date" shall mean the date of the closing of the issuance of Common Stock pursuant to the IPO of the Corporation.

Market Price. The term "Market Price" on any date shall mean, with respect to any class or series of outstanding shares of Capital Stock, the Closing Price for such Capital Stock on such date. The "Closing Price" on any date shall mean the last sale price for such Capital Stock, 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 Capital Stock, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the Nasdaq Stock Market or, if such Capital Stock is not listed or admitted to trading on the Nasdaq Stock Market, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such Capital Stock is listed or admitted to trading or, if such Capital Stock is 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 principal automated quotation system on which such Capital Stock is quoted, if such Capital Stock is 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 Capital Stock selected by the Board of Directors or, in the event that no trading price is available for such Capital Stock, the fair market value of the Capital Stock, as determined in good faith by the Board of Directors.

Person. The term "Person" shall mean an Individual, corporation, partnership, limited liability company, estate, trust, association, 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.

Prohibited Owner. The term "Prohibited Owner" shall mean, with respect to any purported Transfer, any Person who, but for the provisions of Section 6.2.1, would Beneficially Own or Constructively Own shares of Capital Stock, and if appropriate in the context, shall also mean any Person who would have been the record owner of the shares that the Prohibited Owner would have so owned.

Restriction Termination Date. The term "Restriction Termination Date" shall mean the first day after the Initial Date on which the Board of Directors determines pursuant to Section 4.7 of the Charter that it is no longer in the best interests of the Corporation 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 shares of Capital Stock set forth herein is no longer required in order for the Corporation to qualify as a REIT.

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, or change its level of, Beneficial Ownership or Constructive Ownership, or any agreement to take any such actions or cause any such events, of Capital Stock or the right to vote or receive dividends on Capital Stock, 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 Capital Stock or any interest in Capital Stock or any exercise of any such conversion or exchange right and (c) Transfers of interests in other entities that result in changes in Beneficial Ownership or Constructive Ownership of Capital Stock; in each case, whether voluntary or involuntary, whether owned of record, Beneficially Owned or Constructively Owned and whether by operation of law or otherwise. The terms "Transferring" and "Transferred" shall have the correlative meanings.

Trust. The term "Trust" shall mean any trust provided for in Section 6.3.1.

Trustee. The term "Trustee" shall mean the Person who is not affiliated with either the Corporation or any Prohibited Owner, which Person is appointed by the Corporation to serve as trustee of the Trust.

Section 6.2 *Capital Stock.*

Section 6.2.1 *Ownership Limitations*. During the period commencing on the Initial Date and prior to the Restriction Termination Date, but subject to Section 6.4:

(a) Basic Restrictions.

(i) (1) No Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Aggregate Stock Ownership Limit, (2) no Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own shares of Common Stock in excess of the Common Stock Ownership Limit and (3) no Excepted Holder shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Excepted Holder Limit for such Excepted Holder.

(ii) No Person shall Beneficially Own or Constructively Own shares of Capital Stock to the extent that such Beneficial or Constructive Ownership of shares of Capital Stock could result in the Corporation 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 Ownership or Constructive Ownership that could result in (1) the Corporation Constructively Owning an interest in a tenant that is described in Section 856(d)(2)(B) of the Code if the income derived by the Corporation from such tenant could cause the Corporation to fail to satisfy any of the gross income requirements of Section 856(c) of the Code).

(iii) Any Transfer of shares of Capital Stock that, if effective, would result in the Capital Stock being beneficially owned by fewer 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 shares of Capital Stock.

Without limitation of the application of any other provision of this Article VI, it is expressly intended that the restrictions on ownership and Transfer described in this Section 6.2.1 of Article VI shall apply to restrict the rights of any members or partners in limited liability companies or partnerships to exchange their interest in such entities for shares of Capital Stock of the Corporation.

(b) *Transfer in Trust.* If any Transfer of shares of Capital Stock (whether or not such Transfer is the result of a transaction entered into through the facilities of the Nasdaq Stock

Market 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 shares of Capital Stock in violation of Section 6.2.1(a)(i) or (ii):

(i) then that number of shares of the Capital Stock, the Beneficial Ownership or Constructive Ownership of which otherwise would cause such Person to violate Section 6.2.1(a)(i) or (ii) (rounded up to the nearest whole share) shall be automatically transferred to a Trust for the benefit of a Charitable Beneficiary, as described in Section 6.3, 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 shares; or

(ii) if the Transfer to the Trust described in clause (i) of this sentence would not be effective for any reason to prevent the violation of Section 6.2.1(a)(i) or (ii), then the Transfer of that number of shares of Capital Stock that otherwise would cause any Person to violate Section 6.2.1(a)(i) or (ii) shall be void *ab initio*, and the intended transferee shall acquire no rights in such shares of Capital Stock.

In determining which shares of Capital Stock are to be transferred to a Trust in accordance with this Section 6.2.1(b) and Section 6.3 hereof, shares shall be so transferred to a Trust in such manner as minimizes the aggregate value of the shares that are transferred to the Trust (except as provided in Section 6.2.6) and, to the extent not inconsistent therewith, on a pro rata basis. To the extent that, upon a transfer of shares of Capital Stock pursuant to this Section 6.2.1(b), a violation of any provision of Section 6.2.1(a) would nonetheless be continuing (as, for example, where the ownership of shares of Capital Stock by a single Trust would result in the shares of Capital Stock being Beneficially Owned (determined under the principles of Section 856(a)(5) of the Code) by fewer than 100 Persons), then shares of Capital Stock shall be transferred to that number of Trusts, each having a Trustee and a Charitable Beneficiary or Beneficiaries that are distinct from those of each other Trust, such that there is no violation of any provision of Section 6.2.1(a) hereof.

Section 6.2.2 *Remedies for Breach*. If the Board of Directors 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 6.2.1 or that a Person intends or has attempted to acquire Beneficial Ownership or Constructive Ownership of any shares of Capital Stock in violation of Section 6.2.1 (whether or not such violation is intended), the Board of Directors or a committee thereof shall take such action as it deems advisable, in its sole and absolute discretion, to refuse to give effect to or to prevent such Transfer or other event, including, without limitation, causing the Corporation to redeem shares, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer or other event; *provided, however*, that any Transfer or attempted Transfer or other event in violation of Section 6.2.1 shall automatically result in the transfer to the Trust described above, or, 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 Directors or a committee thereof.

Section 6.2.3 *Notice of Restricted Transfer*. Any Person who acquires or attempts or intends to acquire Beneficial Ownership or Constructive Ownership of shares of Capital Stock that will or may violate Section 6.2.1(a) or any Person who would have owned shares of Capital Stock that resulted in a transfer to the Trust pursuant to the provisions of Section 6.2.1(b) shall immediately give written notice to the Corporation of such event or, in the case of such a proposed or attempted transaction, give at least fifteen (15) days prior written notice, and shall provide to the Corporation such other information as the Corporation may request in order to determine the effect, if any, of such Transfer on the Corporation's status as a REIT.

Section 6.2.4 *Owners Required To Provide Information*. From the Initial Date and prior to the Restriction Termination Date:

(a) every owner of five percent or more (or such lower percentage as required by the Code or the Treasury Regulations promulgated thereunder) of the outstanding shares of Capital

Stock, within thirty (30) days after the end of each taxable year, shall give written notice to the Corporation stating the name and address of such owner, the number of shares of each class or series of Capital Stock Beneficially Owned and a description of the manner in which such shares are held. Each such owner shall provide promptly to the Corporation in writing such additional information as the Corporation may request in order to determine the effect, if any, of such Beneficial Ownership on the Corporation's status as a REIT and to ensure compliance with the Aggregate Stock Ownership Limit and the Common Stock Ownership Limit; and

(b) each Person who is a Beneficial Owner or Constructive Owner of shares of Capital Stock and each Person (including the stockholder of record) who is holding shares of Capital Stock for a Beneficial or Constructive Owner shall, on demand, provide to the Corporation in writing such information as the Corporation may request, in good faith, in order to determine the Corporation's status as a REIT and to comply with requirements of any taxing authority or governmental authority or to determine such compliance.

Section 6.2.5 *Remedies Not Limited*. Subject to Section 4.7, nothing contained in this Section 6.2 shall limit the authority of the Board of Directors to take such other action as it deems necessary or advisable to protect the Corporation and the interests of its stockholders in preserving the Corporation's status as a REIT.

Section 6.2.6 *Ambiguity*. In the case of an ambiguity in the application of any of the provisions of this Article VI, including Section 6.2, Section 6.3, or any definition contained in Section 6.1 or any defined term used in this Article VI but defined elsewhere in the Charter, the Board of Directors shall have the power to determine the application of the provisions of this Article VI with respect to any situation based on the facts known to it. In the event Section 6.2 or 6.3 requires an action by the Board of Directors and the Charter fails to provide specific guidance with respect to such action, the Board of Directors shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of Sections 6.1, 6.2 or 6.3. Absent a decision to the contrary by the Board of Directors (which the Board of Directors may make in its sole and absolute discretion), if a Person would have (but for the remedies set forth in Section 6.2.2) acquired Beneficial or Constructive Ownership of shares of Capital Stock in violation of Section 6.2.1, such remedies (as applicable) shall apply first to the shares of Capital Stock which, but for such remedies, would have been actually owned by such Person, and second to shares of Capital Stock which, but for such remedies, would have been Beneficially Owned or Constructively Owned (but not actually owned) by such Person, pro rata among the Persons who actually own such shares of Capital Stock based upon the relative number of the shares of Capital Stock held by each such Person.

Section 6.2.7 *Exceptions*.

(a) Subject to Section 6.2.1(a)(ii), the Board of Directors of the Corporation, in its sole and absolute discretion, may exempt (prospectively or retroactively) a Person from the Aggregate Stock Ownership Limit or the Common Stock Ownership Limit, as the case may be, or may establish or increase an Excepted Holder Limit for such Person, if the Board of Directors reasonably determines, based on such representations, covenants and undertakings from such Person to the extent required by the Board of Directors, and as are reasonably necessary or prudent to ascertain, that such exemption could not cause or permit:

(i) five or fewer Individuals to Beneficially Own more than 49% in value of the outstanding Capital Stock (taking into account the then current Common Stock Ownership Limit and Aggregate Stock Ownership Limit, any then existing Excepted Holder Limits, and the Excepted Holder Limit of such Person); or

(ii) the Corporation to Constructively Own more than a 9.9% interest (that is described in Section 856(d)(2)(B) of the Code) in any tenant of the Corporation or any tenant of any entity directly or indirectly owned, in whole or in part, by the Corporation (for this purpose, in the Board of Director's sole and absolute discretion, a tenant from whom the Corporation (or an entity directly or indirectly owned, in whole or in part, by

the Corporation) derives (and is expected to continue to derive) a sufficiently small amount of revenue such that, in the opinion of the Board of Directors, rent from such tenant would not adversely affect the Corporation's ability to qualify as a REIT shall not be treated as a tenant of the Corporation).

(b) Prior to granting any exception pursuant to Section 6.2.7(a), the Board of Directors 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 Directors in its sole and absolute discretion, as it may deem necessary or advisable in order to determine or ensure the Corporation's status as a REIT. Notwithstanding the receipt of any ruling or opinion, the Board of Directors may impose such conditions or restrictions as it deems appropriate in connection with granting such exception.

(c) Subject to Section 6.2.1(a)(ii), an underwriter which participates in a public offering or a private placement of Capital Stock (or securities convertible into or exchangeable for Capital Stock) may Beneficially Own or Constructively Own shares of Capital Stock (or securities convertible into or exchangeable for Capital Stock) in excess of the Common Stock Ownership Limit, the Aggregate Stock Ownership Limit, or both such limits, but only to the extent necessary to facilitate such public offering or private placement.

(d) The Board of Directors 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 Stock Ownership Limit or the Aggregate Stock Ownership Limit, as applicable.

Section 6.2.8 *Increase or Decrease in Aggregate Stock Ownership and Common Stock Ownership Limits*. Subject to Section 6.2.1(a)(ii) and the rest of this Section 6.2.8, the Board of Directors may, in its sole and absolute discretion, from time to time increase or decrease the Common Stock Ownership Limit and/or the Aggregate Stock Ownership Limit for one or more Persons; provided, however, that a decreased Common Stock Ownership Limit and/or Aggregate Stock Ownership Limit will not be effective for any Person who Beneficially Owns or Constructively Owns, as applicable, shares of Capital Stock in excess of such decreased Common Stock Ownership Limit and/or Aggregate Stock Ownership Limit at the time such limit is decreased, until such time as such Person's Beneficial Ownership or Constructive Ownership of shares of Capital Stock, as applicable, equals or falls below the decreased Common Stock Ownership Limit and/or Aggregate Stock Ownership Limit, but any further acquisition of shares of Capital Stock or increased Beneficial Ownership or Constructive Ownership of shares of Capital Stock will be in violation of the Common Stock Ownership Limit and/or Aggregate Stock Ownership Limit and, provided further, that the new Common Stock Ownership Limit and/or Aggregate Stock Ownership Limit (taking into account any then existing Excepted Holder Limits) would not allow five or fewer Individuals to Beneficially Own more than 49% in value of the outstanding Capital Stock.

Section 6.2.9 *Legend*. Each certificate representing shares of Capital Stock, if any, 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 Corporation's maintenance of its status as a Real Estate Investment Trust under the Internal Revenue Code of 1986, as amended (the "Code"). Subject to certain further restrictions and except as expressly provided in the Corporation's Charter, (i) no Person may Beneficially Own or Constructively Own shares of the Corporation's Common Stock in excess of 9.8% (in value or number of shares) of the outstanding shares of Common Stock of the Corporation unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (ii) no Person may Beneficially Own or Constructively Own shares of Capital Stock of the Corporation in excess of 9.8% of the value of the total outstanding shares of Capital Stock of the Corporation, unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (iii) no Person may

Beneficially Own or Constructively Own Capital Stock that would result in the Corporation being "closely held" under Section 856(h) of the Code or otherwise cause the Corporation to fail to qualify as a REIT; and (iv) no Person may Transfer shares of Capital Stock if such Transfer would result in the Capital Stock of the Corporation being owned by fewer than 100 Persons. Any Person who Beneficially Owns or Constructively Owns or attempts to Beneficially Own or Constructively Own shares of Capital Stock which causes or will cause a Person to Beneficially Own or Constructively Own shares of Capital Stock in excess or in violation of the above limitations must immediately notify the Corporation. If any of the restrictions on transfer or ownership set forth in (i) through (iii) above are violated, the shares of Capital Stock represented hereby will be automatically transferred to a Trustee of a Trust for the benefit of one or more Charitable Beneficiaries. In addition, the Corporation may take other actions, including redeeming shares upon the terms and conditions specified by the Board of Directors in its sole and absolute discretion if the Board of Directors determines that ownership or a Transfer or other event may violate the restrictions described above. Furthermore, 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 Charter of the Corporation, 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 Capital Stock of the Corporation on request and without charge. Requests for such a copy may be directed to the Secretary of the Corporation at its Principal Office.

Instead of the foregoing legend, a certificate may state that the Corporation will furnish a full statement about certain restrictions on ownership and transfer of the shares to a stockholder on request and without charge.

Section 6.3 *Transfer of Capital Stock in Trust.*

Section 6.3.1 *Ownership in Trust.* Upon any purported Transfer or other event described in Section 6.2.1(b) that would result in a transfer of shares of Capital Stock to a Trust, such shares of Capital Stock shall be deemed to have been transferred to the Trustee as trustee of a 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 Trust pursuant to Section 6.2.1(b). The Trustee shall be appointed by the Corporation and shall be a Person who is not affiliated with either the Corporation or any Prohibited Owner. Each Charitable Beneficiary shall be designated by the Corporation as provided in Section 6.3.6.

Section 6.3.2 *Status of Shares Held by the Trustee*. Shares of Capital Stock held by the Trustee shall be issued and outstanding shares of Capital Stock of the Corporation. 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 Trust. The Prohibited Owner shall have no claim, cause of action, or any other recourse whatsoever against the purported transferor of such Capital Stock.

Section 6.3.3 *Dividend and Voting Rights*. The Trustee shall have all voting rights and rights to dividends or other distributions with respect to shares of Capital Stock held in the 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 Corporation that the shares of Capital Stock have been transferred to the Trustee shall be paid by the recipient of such dividend or other distribution to the Trustee upon demand and any dividend or other distribution authorized but unpaid shall be paid when due to the Trustee. Any dividend or distribution so paid 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 Trust and, subject to Maryland law, effective as of the date that the shares of Capital Stock have been transferred to the Trustee, the Trustee shall have the authority (at the Trustee's sole and absolute discretion) (i) to rescind as void any vote cast by a Prohibited Owner prior to the discovery by the Corporation that the shares of Capital Stock 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 Corporation has already taken irreversible corporate action, then the Trustee shall not have the authority to rescind and recast such vote. Notwithstanding the provisions of this Article VI, until the Corporation has received notification that shares of Capital Stock have been transferred into a Trust, the Corporation shall be entitled to rely on its share transfer and other stockholder records for purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies and otherwise conducting votes of stockholders.

Section 6.3.4 *Sale of Shares by Trustee*. Within twenty (20) days of receiving notice from the Corporation that shares of Capital Stock have been transferred to the Trust, the Trustee of the Trust shall sell the shares held in the Trust to a Person or Persons, designated by the Trustee, whose ownership of the shares will not violate the ownership limitations set forth in Section 6.2.1(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 6.3.4. 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 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 Trust and (2) the price per share received by the Trustee (net of any commissions and other expenses of sale) from the sale or other disposition of the shares held in the Trust. The Trustee shall reduce the amount payable to the Prohibited Owner by the amount of dividends and other distributions which have been paid to the Prohibited Owner and are owed by the Prohibited Owner to the Trustee pursuant to Section 6.3.3 of this Article VI. 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 Corporation that shares of Capital Stock 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 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 6.3.4, such excess shall be paid to the Trustee upon demand.

Section 6.3.5 *Purchase Right in Capital Stock Transferred to the Trustee*. Shares of Capital Stock transferred to the Trustee shall be deemed to have been offered for sale to the Corporation, 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 Trust (or, in the case of a devise, gift or other transaction, the Market Price at the time of such devise, gift or other transaction) and (ii) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation shall reduce the amount payable to the Prohibited Owner by the amount of dividends and distributions which have been paid to the Prohibited Owner and are owed by the Prohibited Owner to the Trustee pursuant to Section 6.3.3 of this Article VI. The Corporation shall pay the amount of such reduction to the Trustee for the benefit of the Charitable Beneficiary. The Corporation shall have the right to accept such offer until the Trustee has sold the shares held in the Trust pursuant to Section 6.3.4. Upon such a sale to the Corporation, 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 6.3.6 *Designation of Charitable Beneficiaries*. By written notice to the Trustee, the Corporation shall designate one or more nonprofit organizations to be the Charitable Beneficiary of the interest in the Trust such that the shares of Capital Stock held in the Trust would not violate the restrictions set forth in Section 6.2.1(a) in the hands of such Charitable Beneficiary. Neither the failure of the Corporation to make such designation nor the failure of the Corporation to appoint the Trustee before the automatic transfer provided for in Section 6.2.1(b)(i) shall make such transfer ineffective, provided that the Corporation thereafter makes such designation and appointment.

Section 6.4 *Nasdaq Stock Market Transactions*. Nothing in this Article VI shall preclude the settlement of any transaction entered into through the facilities of the Nasdaq Stock Market 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 VI and any transferee in such a transaction shall be subject to all of the provisions and limitations set forth in this Article VI.

Section 6.5 *Enforcement*. The Corporation is authorized specifically to seek equitable relief, including injunctive relief, to enforce the provisions of this Article VI.

Section 6.6 *Non-Waiver*. No delay or failure on the part of the Corporation or the Board of Directors in exercising any right hereunder shall operate as a waiver of any right of the Corporation or the Board of Directors, as the case may be, except to the extent specifically waived in writing.

Section 6.7 *Severability*. If any provision of this Article VI or any application of any such provision is determined to be invalid by any federal or state court having jurisdiction over the issues, the validity of the remaining provisions shall not be affected and other applications of such provisions shall be affected only to the extent necessary to comply with the determination of such court.

ARTICLE VII

AMENDMENTS

The Corporation reserves the right from time to time to make any amendment to its Charter now or hereafter authorized by law, including any amendment altering the terms or contract rights, as expressly set forth in the Charter, of any shares of outstanding stock. All rights and powers conferred by the Charter on stockholders, directors and officers are granted subject to this reservation. Except as set forth in the next sentence of the Charter, and except for those amendments permitted to be made without stockholder approval under Maryland law or by specific provision in the Charter, any amendment to the Charter shall be valid only if declared advisable by the Board of Directors and approved by the affirmative vote of stockholders entitled to cast a majority of all the votes entitled to be cast on the matter. However, any amendment to Section 4.8, Section 5.6 or to this sentence of the Charter shall be valid only if declared advisable by the Board of Directors and approved by the affirmative vote of stockholders entitled to cast at least two-thirds of all the votes entitled to be cast on the matter.

ARTICLE VIII

LIMITATION OF LIABILITY

To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of directors and officers of a corporation, no present or former director or officer of the Corporation shall be liable to the Corporation or its stockholders for money damages. Neither the amendment nor repeal of this Article VIII, nor the adoption or amendment of any other provision of the Charter or Bylaws inconsistent with this Article VIII, 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.

THIRD: The amendment to and restatement of the Charter as hereinabove set forth have been duly advised and approved by the majority of the Board of Directors and no stock entitled to be voted on these amendments was outstanding or subscribed for at the time of approval.

FOURTH: The current address of the principal office of the Corporation is as set forth in Article III of the foregoing amendment and restatement of the Charter.

FIFTH: The name and address of the Corporation's current resident agent is as set forth in Article III of the foregoing amendment and restatement of the Charter.

SIXTH: The number of directors of the Corporation and the names of those currently in office are as set forth in Article IV of the foregoing amendment and restatement of the Charter.

SEVENTH: The total number of shares of stock which the Corporation had authority to issue immediately prior to this amendment and restatement was 75,000,000 shares, $0.01 par value per share of Common Stock and 500,000 shares, without par value per share of Preferred Stock. The aggregate par value of all shares of stock having par value was $750,000.

EIGHTH: The total number of shares of stock which the Corporation has authority to issue pursuant to the foregoing amendment and restatement of the Charter is 80,000,000, consisting of 75,000,000 shares of Common Stock, $0.01 par value per share, and 5,000,000 shares of Preferred Stock, without par value per share. The aggregate par value of all authorized shares of stock having par value is $750,000.

NINTH: The shares of Series B Preferred Stock have been classified and designated by the Board of Directors under the authority contained in the Charter.

TENTH: The undersigned President and Chairman acknowledges these Articles of Amendment and Restatement to be the corporate act of the Corporation and as to all matters or facts required to be verified under oath, the undersigned President and Chairman acknowledges that, to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment and Restatement to be signed in its name and on its behalf by its President and Chairman and attested to by its Secretary as of the 24th day of April, 2014.

ATTEST:

/s/ Robin A. Hanisch
Name: Robin A. Hanisch
Title: Secretary

WHEELER REAL ESTATE INVESTMENT TRUST, INC.:

By: /s/ Jon S. Wheeler
Name: Jon S. Wheeler
Title: President and Chairman

CERTIFICATE OF CORRECTION
OF
ARTICLES OF AMENDMENT AND RESTATEMENT
FOR
WHEELER REAL ESTATE INVESTMENT TRUST, INC.

The undersigned, on behalf of the corporation certifies as follows that:

FIRST: The title of the document being corrected is the Articles of Amendment and Restatement (the "Amendment").

SECOND: The sole party to the Amendment is Wheeler Real Estate Investment Trust, Inc., a Maryland corporation (the "Corporation").

THIRD: The Amendment was filed with the Maryland State Department of Assessments and Taxation ("MSDAT") on April 24, 2014 at 1:27 p.m.

FOURTH: The provision of the Amendment which is to be corrected and as previously filed with MSDAT is the section set forth below:

1. The first sentence of Section 5.3.15 Liquidation Preference. (a) of the Amendment which as previously filed, reads as follows:

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, before any payment or distribution by the Corporation shall be made to or set apart for the holders of any shares of junior stock, the holders of shares of the Series B Preferred Stock shall be entitled to be paid out of the assets of the Corporation that are legally available for distribution to the stockholders, a liquidation preference of $5.00 per share, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not declared) to and including the date of payment.

is corrected to read as follows:

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, before any payment or distribution by the Corporation shall be made to or set apart for the holders of any shares of junior stock, the holders of shares of the Series B Preferred Stock shall be entitled to be paid out of the assets of the Corporation that are legally available for distribution to the stockholders, a liquidation preference of $25.00 per share, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not declared) to and including the date of payment.

FOURTH: The undersigned President and Chairman acknowledges this Certificate of Correction to be the act of the Corporation and, as to all matters or facts required to be verified under oath, the undersigned President and Chairman acknowledges that, to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Correction to be executed in its name and on its behalf by its Present and Chairman and attested by its Secretary this 25th day of April, 2014.

ATTEST:

/s/ Robin A. Hanisch
Name: Robin A. Hanisch
Title: Secretary

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

By: /s/ Jon S. Wheeler
Name: Jon S. Wheeler
Title: President and Chairman

CERTIFICATE OF CORRECTION
OF
ARTICLES OF AMENDMENT AND RESTATEMENT
FOR
WHEELER REAL ESTATE INVESTMENT TRUST, INC.

The undersigned, on behalf of the corporation certifies as follows that:

FIRST: The title of the document being corrected is the Articles of Amendment and Restatement (the "Amendment").

SECOND: The sole party to the Amendment is Wheeler Real Estate Investment Trust, Inc., a Maryland corporation (the "Corporation").

THIRD: The Amendment was filed with the Maryland State Department of Assessments and Taxation ("MSDAT") on April 24, 2014 at 1:27 p.m.

FOURTH: The provision of the Amendment which is to be corrected and as previously filed with MSDAT is the section set forth below:

1. The first sentence of Section 5.3.6. Dividends. (a) of the Amendment which as previously filed, reads as follows:

(a) Subject to the preferential rights of holders of any class or series of senior stock, holders of Series A Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds legally available for the payment of dividends, cash dividends at the rate of [ ]% per annum.

is corrected to read as follows:

(a) Subject to the preferential rights of holders of any class or series of senior stock, holders of Series A Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds legally available for the payment of dividends, cash dividends at the rate of 9% per annum of the $1,000 liquidation preference per share of the Series A Preferred Stock (equivalent to the fixed annual amount of $90.00 per share of the Series A Preferred Stock).

2. The first sentence of Section 5.3.13. Dividends. (a) of the Amendment, which was previously filed, reads as follows:

(a) Subject to the preferential rights of holders of any class or series of senior stock, holders of Series B Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds legally available for the payment of dividends, cash dividends at the rate of 9% per annum.

is corrected to read as follows:

(b) Subject to the preferential rights of holders of any class or series of senior stock, holders of Series B Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds legally available for the payment of dividends, cash dividends at the rate of 9% per annum of the $25 liquidation preference per share of the Series B Preferred Stock (equivalent to the fixed annual amount of $2.25 per share of the Series B Preferred Stock).

FOURTH: The undersigned President and Chairman acknowledges this Certificate of Correction to be the act of the Corporation and, as to all matters or facts required to be verified under oath, the undersigned President and Chairman acknowledges that, to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Correction to be executed in its name and on its behalf by its Present and Chairman and attested by its Secretary this 18th day of August, 2014.

ATTEST:

/s/ Robin A. Hanisch
Name: Robin A. Hanisch
Title: Secretary

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

By: /s/ Jon S. Wheeler
Name: Jon S. Wheeler
Title: Chairman and CEO

WHEELER REAL ESTATE INVESTMENT TRUST, INC.
ARTICLES OF AMENDMENT

Wheeler Real Estate Investment Trust, Inc., a Maryland corporation (the "Corporation"), hereby certifies to the State Department of Assessments and Taxation of Maryland that:

FIRST: The Corporation desires to amend its charter (the "Charter") as currently in effect and as hereinafter amended.

SECOND: In accordance with Section 2-603(c) of the Maryland Code, this amendment to the charter has been duly approved by the Board of Directors of the Corporation as required by law.

THIRD: The charter of the Corporation is hereby amended as follows:

Section 5.3.10 is deleted in its entirety and replaced with the new Section 5.3.10. The text of the new section follows.

Series B Preferred Stock

Section 5.3.10 *Designation and Number*. A series of Preferred Stock, designated the "Series B Preferred Stock" (the "Series B Preferred Stock"), is hereby established. The number of shares of the Series B Preferred Stock shall be 3,000,000.

FOURTH: The total number of shares of stock which the Corporation had authority to issue immediately prior to this amendment was 80,000,000, consisting of 75,000,000 shares of Common Stock, $0.01 par value per share, and 5,000,000 shares of Preferred Stock, without par value per share, of which 1,000,000 shares were designated as Series B Preferred Stock. The aggregate par value of all shares of stock having par value was $750,000.

FIFTH: The total number of shares of stock which the Corporation has authority to issue pursuant to the foregoing amendment of the Charter is 80,000,000, consisting of 75,000,000 shares of Common Stock, $0.01 par value per share, and 5,000,000 shares of Preferred Stock, without par value per share, of which 3,000,000 shares are designated as Series B Preferred Stock. The aggregate par value of all authorized shares of stock having par value is $750,000.

SIXTH: The undersigned Chairman and Chief Executive Officer acknowledges these Articles of Amendment to be the corporate act of the Corporation and as to all matters or facts required to be verified under oath, the undersigned Chairman and Chief Executive Officer acknowledges that, to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment to be signed in its name and on its behalf by its Chairman and Chief Executive Officer and attested to by its Secretary as of the 15th day of August, 2014.

ATTEST:

By: /s/ Robin A. Hanisch
Name: Robin A. Hanisch
Title: Secretary

WHEELER REAL ESTATE INVESTMENT TRUST, INC.:

By: /s/ Jon S. Wheeler
Name: Jon S. Wheeler
Title: Chairman and Chief Executive Officer

Return address of filing party:
Wheeler Real Estate Investment Trust, Inc.
c/o The Corporation Trust Incorporated
351 West Camden Street
Baltimore, MD 21201

Exhibit 4.4

AMENDED AND RESTATED

AGREEMENT OF LIMITED PARTNERSHIP

OF

WHEELER REAL ESTATE INVESTMENT TRUST, L.P.

a Virginia limited partnership

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "*SECURITIES ACT*"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION, UNLESS IN THE OPINION OF COUNSEL SATISFACTORY TO THE PARTNERSHIP THE PROPOSED SALE, TRANSFER OR OTHER DISPOSITION MAY BE EFFECTED WITHOUT REGISTRATION UNDER THE SECURITIES ACT AND UNDER APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS.

Dated as of November 16, 2012

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Exhibits List

AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF WHEELER REAL ESTATE INVESTMENT TRUST, L.P.

THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF WHEELER REAL ESTATE INVESTMENT TRUST, L.P., dated as of November 16, 2012, is made and entered into by and among WHEELER REAL ESTATE INVESTMENT TRUST, INC., a Maryland corporation, as the General Partner, and the Persons whose names are set forth on Exhibit A attached hereto, as limited partners, and any Additional Limited Partner that is admitted from time to time to the Partnership and listed on Exhibit A attached hereto.

WHEREAS, a Certificate of Limited Partnership of the Partnership was filed with the State Corporation Commission of Virginia on April 5, 2012 (the "*Formation Date*"), and the initial general partner and limited partners of the Partnership entered into an original agreement of limited partnership of the Partnership effective as of the Formation Date (the "*Original Partnership Agreement*"); and

WHEREAS, the Partners (as hereinafter defined) now desire to amend and restate the Original Partnership Agreement and admit the Persons whose names are set forth on Exhibit A attached hereto as limited partners of the Partnership by entering into this Agreement (as hereinafter defined);

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1
DEFINED TERMS

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement:

"*Act*" means the Virginia Revised Uniform Limited Partnership Act, Title 50 of the Code of Virginia, as it may be amended from time to time, and any successor to such statute.

"*Actions*" has the meaning set forth in Section 7.7 hereof.

"*Additional Funds*" has the meaning set forth in Section 4.3.A hereof.

"*Additional Limited Partner*" means a Person who is admitted to the Partnership as a limited partner pursuant to the Act and Section 4.2 and Section 12.2 hereof and who is shown as such on the books and records of the Partnership.

"*Adjusted Capital Account*" means, with respect to any Partner, the balance in such Partner's Capital Account as of the end of the relevant Partnership Year or other applicable period, after giving effect to the following adjustments:

(i) increase such Capital Account by any amounts that such Partner is obligated to restore pursuant to this Agreement upon liquidation of such Partner's Partnership Interest or that such Person is deemed to be obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c) or the penultimate sentence of each of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(ii) decrease such Capital Account by the items described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of "Adjusted Capital Account" is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"*Adjusted Capital Account Deficit*" means, with respect to any Partner, the deficit balance, if any, in such Partner's Adjusted Capital Account as of the end of the relevant Partnership Year or other applicable period.

"*Adjustment Factor*" means 1.0; *provided*, *however*, that in the event that:

(i) the General Partner (a) declares or pays a dividend on its outstanding REIT Shares wholly or partly in REIT Shares or makes a distribution to all holders of its outstanding REIT Shares wholly or partly in REIT Shares, (b) splits or subdivides its outstanding REIT Shares or (c) effects a reverse stock split or otherwise combines its outstanding REIT Shares into a smaller number of REIT Shares, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (i) the numerator of which shall be the number of REIT Shares issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination (assuming for such purposes that such dividend, distribution, split, subdivision, reverse split or combination has occurred as of such time) and (ii) the denominator of which shall be the actual number of REIT Shares (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination;

(ii) the General Partner distributes any rights, options or warrants to all holders of its REIT Shares to subscribe for or to purchase or to otherwise acquire REIT Shares, or other securities or rights convertible into, exchangeable for or exercisable for REIT Shares (other than REIT Shares issuable pursuant to a Qualified DRIP/COPP), at a price per share less than the Value of a REIT Share on the record date for such distribution (each a "*Distributed Right*"), then, as of the distribution date of such Distributed Rights or, if later, the time such Distributed Rights become exercisable, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction (a) the numerator of which shall be the number of REIT Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus the maximum number of REIT Shares purchasable under such Distributed Rights and (b) the denominator of which shall be the number of REIT Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus a fraction (1) the numerator of which is the maximum number of REIT Shares purchasable under such Distributed Rights times the minimum purchase price per REIT Share under such Distributed Rights and (2) the denominator of which is the Value of a REIT Share as of the record date (or, if later, the date such Distributed Rights become exercisable); *provided*, *however*, that, if any such Distributed Rights expire or become no longer exercisable, then the Adjustment Factor shall be adjusted, effective retroactive to the date of distribution of the Distributed Rights, to reflect a reduced maximum number of REIT Shares or any change in the minimum purchase price for the purposes of the above fraction; and

(iii) the General Partner shall, by dividend or otherwise, distribute to all holders of its REIT Shares evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in subsection (i) or (ii) above), which evidences of indebtedness or assets relate to assets not received by the General Partner pursuant to a pro rata distribution by the Partnership, then the Adjustment Factor shall be adjusted to equal the amount determined by multiplying the Adjustment Factor in effect immediately prior to the close of business as of the record date by a fraction (a) the numerator of which shall be such Value of a REIT Share as of the record date and (b) the denominator of which shall be the Value of a REIT Share as of the record date less the then fair market value (as determined by the General Partner, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets so distributed applicable to one REIT Share.

Notwithstanding the foregoing, no adjustments to the Adjustment Factor will be made for any class or series of Partnership Interests to the extent that the Partnership makes or effects any correlative distribution or payment to all of the Partners holding Partnership Interests of such class or series, or effects any correlative split or reverse split in respect of the Partnership Interests of such class or series. Any adjustments to the Adjustment Factor shall become effective immediately after such event, retroactive to the record date, if any, for such event. For illustrative purposes, examples of adjustments to the Adjustment Factor are set forth on Exhibit B attached hereto.

"*Affiliate*" means, with respect to any Person, any Person directly or indirectly controlling or controlled by or under common control with such Person. For the purposes of this definition, "control" when used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"*Agreement*" means this Amended and Restated Limited Partnership Agreement of Wheeler Real Estate Investment Trust, L.P., as now or hereafter amended, restated, modified, supplemented or replaced.

"*Applicable Percentage*" has the meaning set forth in Section 15.1.B hereof.

"*Appraisal*" means, with respect to any assets, the written opinion of an independent third party experienced in the valuation of similar assets, selected by the General Partner. Such opinion may be in the form of an opinion by such independent third party that the value for such property or asset as set by the General Partner is fair, from a financial point of view, to the Partnership.

"*Assignee*" means a Person to whom a Partnership Interest has been Transferred in a manner permitted under this Agreement, but who has not become a Substituted Limited Partner, and who has the rights set forth in Section 11.5 hereof.

"*Available Cash*" means, with respect to any period for which such calculation is being made,

(i) the sum, without duplication, of:

(1) the Partnership's Net Income or Net Loss (as the case may be) for such period,

(2) Depreciation and all other noncash charges to the extent deducted in determining Net Income or Net Loss for such period,

(3) the amount of any reduction in reserves of the Partnership referred to in clause (ii)(6) below (including, without limitation, reductions resulting because the General Partner determines such amounts are no longer necessary),

(4) the excess, if any, of the net cash proceeds from the sale, exchange, disposition, financing or refinancing of Partnership property for such period over the gain (or loss, as the case may be) recognized from such sale, exchange, disposition, financing or refinancing during such period (excluding Terminating Capital Transactions), and

(5) all other cash received (including amounts previously accrued as Net Income and amounts of deferred income) or any net amounts borrowed by the Partnership for such period that was not included in determining Net Income or Net Loss for such period;

(ii) less the sum, without duplication, of:

(1) all principal debt payments made during such period by the Partnership,

(2) capital expenditures made by the Partnership during such period,

(3) investments in any entity (including loans made thereto) to the extent that such investments are not otherwise described in clause (ii)(1) or clause (ii)(2) above,

(4) all other expenditures and payments not deducted in determining Net Income or Net Loss for such period (including amounts paid in respect of expenses previously accrued),

(5) any amount included in determining Net Income or Net Loss for such period that was not received by the Partnership during such period,

(6) the amount of any increase in reserves (including, without limitation, working capital reserves) established during such period that the General Partner determines are necessary or appropriate in its sole and absolute discretion,

(7) any amount distributed or paid in redemption of any Limited Partner Interest or Partnership Units, including, without limitation, any Cash Amount paid, and

(8) the amount of any working capital accounts and other cash or similar balances which the General Partner determines to be necessary or appropriate in its sole and absolute discretion.

Notwithstanding the foregoing, Available Cash shall not include (a) any cash received or reductions in reserves, or take into account any disbursements made, or reserves established, after dissolution and the commencement of the liquidation and winding up of the Partnership or (b) any Capital Contributions, whenever received or any payments, expenditures or investments made with such Capital Contributions.

"*Business Day*" means any day except a Saturday, Sunday or other day on which commercial banks in Virginia Beach, Virginia are authorized by law to close.

"*Capital Account*" means, with respect to any Partner, the capital account maintained by the General Partner for such Partner on the Partnership's books and records in accordance with the following provisions:

(i) To each Partner's Capital Account, there shall be added such Partner's Capital Contributions, such Partner's distributive share of Net Income and any items in the nature of income or gain that are specially allocated pursuant to Section 6.3 or 6.4 hereof, and the amount of any Partnership liabilities assumed by such Partner or that are secured by any property distributed to such Partner.

(ii) From each Partner's Capital Account, there shall be subtracted the amount of cash and the Gross Asset Value of any Partnership property distributed to such Partner pursuant to any provision of this Agreement, such Partner's distributive share of Net Losses and any items in the nature of expenses or losses that are specially allocated pursuant to Section 6.3 or 6.4 hereof, and the amount of any liabilities of such Partner assumed by the Partnership or that are secured by any property contributed by such Partner to the Partnership (except to the extent already reflected in the amount of such Partner's Capital Contribution).

(iii) In the event any interest in the Partnership is Transferred in accordance with the terms of this Agreement (which Transfer does not result in the termination of the Partnership for U.S. federal income tax purposes), the transferee shall succeed to the Capital Account of the transferor to the extent that it relates to the Transferred interest.

(iv) In determining the amount of any liability for purposes of subsections (i) and (ii) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

(v) The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations promulgated under Section 704 of the Code, and shall be interpreted and applied in a manner consistent with such Regulations. If the General Partner shall determine that it is necessary or prudent to modify the manner in which the Capital Accounts are maintained in order to comply with such Regulations, the General Partner may make such modification, provided that such modification is not likely to have any material effect on the amounts distributable to any Partner pursuant to Article 13 hereof upon the dissolution of the Partnership. The General Partner may, in its sole discretion, (a) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (b) make any appropriate modifications in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b) or Section 1.704-2.

"*Capital Contribution*" means, with respect to any Partner, the amount of money and the initial Gross Asset Value of any Contributed Property that such Partner contributes or is deemed to contribute to the Partnership pursuant to Article 4 hereof.

"*Capital Share*" means a share of any class or series of stock of the General Partner now or hereafter authorized other than a REIT Share.

"*Cash Amount*" means an amount of cash equal to the product of (i) the Value of a REIT Share and (ii) the REIT Shares Amount determined as of the applicable Valuation Date.

"*Certificate*" means the Certificate of Limited Partnership of the Partnership filed with the SCC, as amended from time to time in accordance with the terms hereof and the Act.

"*Charity*" means an entity described in Section 501(c)(3) of the Code or any trust all the beneficiaries of which are such entities.

"*Charter*" means the charter of the General Partner, within the meaning of Section 1-101(e) of the Maryland General Corporation Law.

"*Closing Price*" has the meaning set forth in the definition of "*Value*."

"*Code*" means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute thereto, as interpreted by the applicable Regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

"*Consent*" means the consent to, approval of, or vote in favor of a proposed action by a Partner given in accordance with Article 14 hereof. The terms "*Consented*" and "*Consenting*" have correlative meanings.

"*Consent of the General Partner*" means the Consent of the sole General Partner, which Consent, except as otherwise specifically required by this Agreement, may be obtained prior to or after the taking of any action for which it is required by this Agreement and may be given or withheld by the General Partner in its sole and absolute discretion.

"*Consent of the Limited Partners*" means the Consent of a Majority in Interest of the Limited Partners, which Consent shall be obtained prior to the taking of any action for which it is required by this Agreement and, except as otherwise provided in this Agreement, may be given or withheld by each Limited Partner in its sole and absolute discretion.

"*Consent of the Partners*" means the Consent of the General Partner and the Consent of a Majority in Interest of the Partners, which Consent shall be obtained prior to the taking of any action for which it is required by this Agreement and, except as otherwise provided in this Agreement, may be given or withheld by the General Partner or the Limited Partners in their sole and absolute discretion; *provided*, *however*, that, if any such action affects only certain classes or series of Partnership Interests, "Consent of the Partners" means the Consent of the General Partner and the Consent of a Majority in Interest of the Partners of the affected classes or series of Partnership Interests.

"*Contributed Property*" means each Property or other asset, in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Partnership (or deemed contributed by the Partnership to a "new" partnership pursuant to Code Section 708).

"*Controlled Entity*" means, as to any Partner, (a) any corporation more than fifty percent (50%) of the outstanding voting stock of which is owned by such Partner or such Partner's Family Members or Affiliates, (b) any trust, whether or not revocable, of which such Partner or such Partner's Family Members or Affiliates are the sole beneficiaries, (c) any partnership of which such Partner or its Affiliates are the managing partners and in which such Partner, such Partner's Family Members or Affiliates hold partnership interests representing at least twenty-five percent (25%) of such partnership's capital and profits and (d) any limited liability company of which such Partner or its Affiliates are the managers and in which such Partner, such Partner's Family Members or Affiliates hold membership interests representing at least twenty-five percent (25%) of such limited liability company's capital and profits.

"*Cut-Off Date*" means the fifth (5th) Business Day after the General Partner's receipt of a Notice of Redemption.

"*Debt*" means, as to any Person, as of any date of determination: (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (ii) all amounts owed by such Person to banks or other Persons in respect of reimbursement obligations under letters of credit, surety bonds and other similar instruments guaranteeing payment or other performance of obligations by such Person; (iii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by any lien on any property owned by such Person, to the extent attributable to such Person's interest in such property, even though such Person has not assumed or become liable for the payment thereof; and (iv) lease obligations of such Person that, in accordance with generally accepted accounting principles, should be capitalized.

"*Depreciation*" means, for each Partnership Year or other applicable period, an amount equal to the federal income tax depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; *provided*, *however*, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

"*Disregarded Entity*" means, with respect to any Person, (i) any "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)) of such Person, (ii) any entity treated as a disregarded entity for Federal income tax purposes with respect to such Person, or (iii) any grantor trust if the sole owner of the assets of such trust for Federal income tax purposes is such Person.

"*Distributed Right*" has the meaning set forth in the definition of "*Adjustment Factor*."

"*Equity Plan*" means any stock or equity purchase plan, restricted stock or equity plan or other similar equity compensation plan now or hereafter adopted by the Partnership or the General Partner, including the Plan.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended, and any successor statute thereto, and the rules and regulations of the SEC promulgated thereunder.

"*Family Members*" means, as to a Person that is an individual, such Person's spouse, ancestors, descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters, nieces and nephews and *inter vivos* or testamentary trusts (whether revocable or irrevocable) of which only such Person and his or her spouse, ancestors, descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters and nieces and nephews are beneficiaries.

"*Final Adjustment*" has the meaning set forth in Section 10.3.B(2) hereof.

"*Flow-Through Partners*" has the meaning set forth in Section 3.4.C hereof.

"*Flow-Through Entity*" has the meaning set forth in Section 3.4.C hereof.

"*Funding Debt*" means any Debt incurred by or on behalf of the General Partner for the purpose of providing funds to the Partnership.

"*General Partner*" means Wheeler Real Estate Investment Trust, Inc. and its successors and assigns as a general partner of the Partnership, in each case, that is admitted from time to time to the Partnership as a general partner pursuant to the Act and this Agreement and is listed as a general partner on Exhibit A, as such Exhibit A may be amended from time to time, in such Person's capacity as a general partner of the Partnership.

"*General Partner Interest*" means the entire Partnership Interest held by a General Partner hereof, which Partnership Interest may be expressed as a number of Partnership Common Units, Partnership Preferred Units or any other Partnership Units.

"*General Partner Interest Transfer*" has the meaning set forth in Section 11.2.D hereof.

"*Gross Asset Value*" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset on the date of contribution, as determined by the General Partner and agreed to by the contributing Person.

(b) The Gross Asset Values of all Partnership assets immediately prior to the occurrence of any event described in clauses (i) through (v) below shall be adjusted to equal their respective gross fair market values, as determined by the General Partner using such reasonable method of valuation as it may adopt, as of the following times:

(i) the acquisition of an additional interest in the Partnership (other than in connection with the execution of this Agreement but including, without limitation, acquisitions pursuant to Section 4.2 hereof or contributions or deemed contributions by the General Partner pursuant to Section 4.2 hereof) by a new or existing Partner in exchange for more than a *de minimis* Capital Contribution, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(ii) the distribution by the Partnership to a Partner of more than a *de minimis* amount of Partnership property as consideration for an interest in the Partnership if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(iii) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g);

(iv) the grant of an interest in the Partnership (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Partnership by an existing Partner acting in a

partner capacity, or by a new Partner acting in a partner capacity or in anticipation of becoming a Partner of the Partnership, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership; and

(v) at such other times as the General Partner shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2.

(c) The Gross Asset Value of any Partnership asset distributed to a Partner shall be the gross fair market value of such asset on the date of distribution, as determined by the distributee and the General Partner; *provided*, *however*, that if the distributee is the General Partner or if the distributee and the General Partner cannot agree on such a determination, such gross fair market value shall be determined by Appraisal.

(d) The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); *provided*, *however*, that Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent that the General Partner reasonably determines that an adjustment pursuant to subsection (b) above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d).

(e) If the Gross Asset Value of a Partnership asset has been determined or adjusted pursuant to subsection (a), subsection (b) or subsection (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Income and Net Losses.

"*Hart-Scott-Rodino Act*" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"*Holder*" means either (a) a Partner or (b) an Assignee owning a Partnership Interest.

"*Incapacity*" or "*Incapacitated*" means: (i) as to any Partner who is an individual, death, total physical disability or entry by a court of competent jurisdiction adjudicating such Partner incompetent to manage his or her person or his or her estate; (ii) as to any Partner that is a corporation or limited liability company, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; (iii) as to any Partner that is a partnership, the dissolution and commencement of winding up of the partnership; (iv) as to any Partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the Partnership; (v) as to any trustee of a trust that is a Partner, the termination of the trust (but not the substitution of a new trustee); or (vi) as to any Partner, the bankruptcy of such Partner. For purposes of this definition, bankruptcy of a Partner shall be deemed to have occurred when (a) the Partner commences a voluntary proceeding seeking liquidation, reorganization or other relief of or against such Partner under any bankruptcy, insolvency or other similar law now or hereafter in effect, (b) the Partner is adjudged as bankrupt or insolvent, or a final and non-appealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect has been entered against the Partner, (c) the Partner executes and delivers a general assignment for the benefit of the Partner's creditors, (d) the Partner files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Partner in any proceeding of the nature described in clause (b) above, (e) the Partner seeks, consents to or acquiesces in the appointment of a trustee, receiver or Liquidator for the Partner or for all or any substantial part of the Partner's properties, (f) any proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within one hundred twenty (120) days after the commencement thereof, (g) the appointment without the Partner's consent or acquiescence of a trustee, receiver or Liquidator has not been vacated or stayed within ninety (90) days of such appointment, or (h) an appointment referred to in clause (g) above is not vacated within ninety (90) days after the expiration of any such stay.

"*Indemnitee*" means (i) any Person made, or threatened to be made, a party to a proceeding by reason of its status as (a) the General Partner or (b) a director of the General Partner or an officer of the Partnership or the General Partner and (ii) such other Persons (including Affiliates or employees of the General Partner or the Partnership) as the General Partner may designate from time to time (whether before or after the event giving rise to potential liability), in its sole and absolute discretion.

"*IRS*" means the United States Internal Revenue Service.

"*Limited Partner*" means any Person that is admitted from time to time to the Partnership as a limited partner pursuant to the Act and this Agreement and is listed as a limited partner on Exhibit A attached hereto, as such

Exhibit A may be amended from time to time, including any Substituted Limited Partner or Additional Limited Partner, in such Person's capacity as a limited partner of the Partnership.

"*Limited Partner Interest*" means a Partnership Interest of a Limited Partner in the Partnership representing a fractional part of the Partnership Interests of all Limited Partners and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. A Limited Partner Interest may be expressed as a number of Partnership Common Units, Partnership Preferred Units or other Partnership Units.

"*Liquidating Event*" has the meaning set forth in Section 13.1 hereof.

"*Liquidating Gains*" means any net gain realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Partnership (including upon the occurrence of any Liquidating Event or Terminating Capital Transaction), including but not limited to net gain realized in connection with an adjustment to the Gross Asset Value of Partnership assets under the definition of Gross Asset Value in Section 1 of this Agreement.

"*Liquidator*" has the meaning set forth in Section 13.2.A hereof.

"*Majority in Interest of the Limited Partners*" means Limited Partners (other than any Limited Partner fifty percent (50%) or more of whose equity is owned, directly or indirectly, by the General Partner) holding in the aggregate Percentage Interests that are greater than fifty percent (50%) of the aggregate Percentage Interests of all such Limited Partners entitled to Consent to or withhold Consent from a proposed action.

"*Majority in Interest of the Partners*" means Partners holding in the aggregate Percentage Interests that are greater than fifty percent (50%) of the aggregate Percentage Interests of all Partners entitled to Consent to or withhold Consent from a proposed action.

"*Market Price*" has the meaning set forth in the definition of "*Value*."

"*Net Income*" or "*Net Loss*" means, for each Partnership Year or other applicable period, an amount equal to the Partnership's taxable income or loss for such year or other applicable period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of "Net Income" or "Net Loss" shall be added to (or subtracted from, as the case may be) such taxable income (or loss);

(b) Any expenditure of the Partnership described in Code Section 705(a)(2)(B) or treated as a Code Section 705(a)(2)(B) expenditure pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of "Net Income" or "Net Loss," shall be subtracted from (or added to, as the case may be) such taxable income (or loss);

(c) In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to subsection (b) or subsection (c) of the definition of "Gross Asset Value," the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;

(d) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization and other cost recovery deductions that would otherwise be taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Partnership Year or other applicable period;

(f) To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner's interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the

disposition of the asset and shall be taken into account for purposes of computing Net Income or Net Loss; and

(g) Notwithstanding any other provision of this definition of "Net Income" or "Net Loss," any item that is specially allocated pursuant to Article 6 hereof shall not be taken into account in computing Net Income or Net Loss. The amounts of the items of Partnership income, gain, loss or deduction available to be specially allocated pursuant to Section 6.3 or 6.4 hereof shall be determined by applying rules analogous to those set forth in this definition of "Net Income" or "Net Loss."

"*New Securities*" means (i) any rights, options, warrants or convertible or exchangeable securities having the right to subscribe for or purchase REIT Shares or Preferred Shares, excluding grants under the Stock Option Plans, or (ii) any Debt issued by the General Partner that provides any of the rights described in clause (i).

"*Nonrecourse Deductions*" has the meaning set forth in Regulations Section 1.704-2(b)(1), and the amount of Nonrecourse Deductions for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(c).

"*Nonrecourse Liability*" has the meaning set forth in Regulations Sections 1.704-2(b)(3) and 1.752-1(a)(2).

"*Notice of Redemption*" means the Notice of Redemption substantially in the form of Exhibit C attached to this Agreement.

"*Optionee*" means a Person to whom a stock option is granted under any Stock Option Plan.

"*Original Limited Partner*" means any Person that is a Limited Partner as of the close of business on the date of the closing of the issuance of REIT Shares pursuant to the initial public offering of REIT Shares, and does not include any Assignee or other transferee, including, without limitation, any Substituted Limited Partner succeeding to all or any part of the Partnership Interest of any such Person.

"*Ownership Limit*" means the restriction or restrictions on the ownership and transfer of stock of the General Partner imposed under the Charter.

"*Partner*" means the General Partner or a Limited Partner, and "*Partners*" means the General Partner and the Limited Partners.

"*Partner Minimum Gain*" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

"*Partner Nonrecourse Debt*" has the meaning set forth in Regulations Section 1.704-2(b)(4).

"*Partner Nonrecourse Deductions*" has the meaning set forth in Regulations Section 1.704-2(i)(1), and the amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(i)(2).

"*Partnership*" means the limited partnership formed and continued under the Act and pursuant to this Agreement, and any successor thereto.

"*Partnership Common Unit*" means a fractional, undivided share of the Partnership Interests of all Partners issued pursuant to Sections 4.1 and 4.2 hereof, but does not include any Partnership Preferred Unit or any other Partnership Unit specified in a Partnership Unit Designation as being other than a Partnership Common Unit.

"*Partnership Approval*" exists, with respect to any General Partner Interest Transfer, when the sum of (i) the Percentage Interest of Limited Partners holding Partnership Common Units Consenting to the General Partner Interest Transfer, plus (ii) the product of (a) the Percentage Interest of Partnership Common Units held by the General Partner multiplied by (b) the percentage of the votes that were cast in favor of the event constituting such General Partner Interest Transfer by the General Partner's common stockholders out of the total votes entitled to be cast by the General Partner's common stockholders, equals or exceeds the percentage required for the common stockholders of the General Partner to approve the event constituting such General Partner Interest Transfer. In the event that Partnership Approval has not been established by the date that is five (5) Business Days after the date upon which the vote of the stockholders of the General Partner was certified, or the consent of the stockholders of

the General Partner was obtained, with respect to the event constituting such General Partner Interest Transfer, then Partnership Approval shall be deemed not to exist with respect to such event.

"*Partnership Employee*" means an employee or other service provider of the Partnership or of a Subsidiary of the Partnership, if any, acting in such capacity.

"*Partnership Equivalent Units*" has the meaning set forth in Section 4.7.A hereof.

"*Partnership Interest*" means an ownership interest in the Partnership held by either a Limited Partner or a General Partner and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. There may be one or more classes or series of Partnership Interests. A Partnership Interest may be expressed as a number of Partnership Common Units, Partnership Preferred Units or other Partnership Units.

"*Partnership Minimum Gain*" has the meaning set forth in Regulations Section 1.704-2(b)(2), and the amount of Partnership Minimum Gain, as well as any net increase or decrease in Partnership Minimum Gain, for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(d).

"*Partnership Preferred Unit*" means a fractional, undivided share of the Partnership Interests that the General Partner has authorized pursuant to Section 4.2 hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the Partnership Common Units.

"*Partnership Record Date*" means the record date established by the General Partner for a distribution pursuant to Section 5.1 hereof, which record date shall generally be the same as the record date established by the General Partner for a distribution to its stockholders of some or all of its portion of such distribution.

"*Partnership Unit*" means a Partnership Common Unit, a Partnership Preferred Unit or any other unit of the fractional, undivided share of the Partnership Interests that the General Partner has authorized pursuant to Section 4.1, Section 4.2 or Section 4.3 hereof; *provided*, *however*, that Partnership Units comprising a General Partner Interest or a Limited Partner Interest shall have the differences in rights and privileges as specified in this Agreement.

"*Partnership Unit Designation*" shall have the meaning set forth in Section 4.2.A hereof.

"*Partnership Year*" means the fiscal year of the Partnership, which shall be the calendar year.

"*Percentage Interest*" means, with respect to each Partner, the fraction, expressed as a percentage, the numerator of which is the aggregate number of Partnership Units of all classes and series held by such Partner and the denominator of which is the total number of Partnership Units of all classes and series held by all Partners; *provided, however*, that, to the extent applicable in context, the term "Percentage Interest" means, with respect to a Partner, the fraction, expressed as a percentage, the numerator of which is the aggregate number of Partnership Units of a specified class or series (or specified group of classes and/or series) held by such Partner and the denominator of which is the total number of Partnership Units of such specified class or series (or specified group of classes and/or series) held by all Partners.

"*Permitted Transfer*" has the meaning set forth in Section 11.3.A hereof.

"*Person*" means an individual or a corporation, partnership, trust, unincorporated organization, association, limited liability company or other entity.

"*Plan*" means the Wheeler Real Estate Investment Trust, Inc. 2012 Stock Incentive Plan.

"*Pledge*" has the meaning set forth in Section 11.3.A hereof.

"*Preferred Share*" means a share of stock of the General Partner of any class or series now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the REIT Shares.

"*Properties*" means any assets and property of the Partnership such as, but not limited to, interests in real property and personal property, including, without limitation, fee interests, interests in ground leases, easements and rights of way, interests in limited liability companies, joint ventures or partnerships, interests in mortgages, and Debt instruments as the Partnership may hold from time to time and "Property" means any one such asset or property.

"*Qualified DRIP/COPP*" means a dividend reinvestment plan or a cash option purchase plan of the General Partner that permits participants to acquire REIT Shares using the proceeds of dividends paid by the General Partner or cash of the participant, respectively; *provided*, *however*, that if such shares are offered at a discount, such discount must (i) be designed to pass along to the stockholders of the General Partner the savings enjoyed by the General Partner in connection with the avoidance of stock issuance costs, and (ii) not exceed 5% of the value of a REIT Share as computed under the terms of such plan.

"*Qualified Transferee*" means an "accredited investor" as defined in Rule 501 promulgated under the Securities Act.

"*Qualifying Party*" means (a) a Limited Partner, (b) an Assignee or (c) a Person, including a lending institution as the pledgee of a Pledge, who is the transferee of a Limited Partner Interest in a Permitted Transfer; *provided*, *however*, that a Qualifying Party shall not include the General Partner.

"*Redemption*" has the meaning set forth in Section 15.1.A hereof.

"*Regulations*" means the income tax regulations under the Code, whether such regulations are in proposed, temporary or final form, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"*Regulatory Allocations*" has the meaning set forth in Section 6.4.A(viii) hereof.

"*REIT*" means a real estate investment trust qualifying under Code Section 856.

"*REIT Partner*" means (a) the General Partner or any Affiliate of the General Partner to the extent such Person has in place an election to qualify as a REIT and, (b) any Disregarded Entity with respect to any such Person.

"*REIT Payment*" has the meaning set forth in Section 15.12 hereof.

"*REIT Requirements*" has the meaning set forth in Section 5.1 hereof.

"*REIT Share*" means a share of common stock of the General Partner, $0.01 par value per share, but shall not include any class or series of the General Partner's common stock classified after the date of this Agreement.

"*REIT Shares Amount*" means a number of REIT Shares equal to the product of (a) the number of Tendered Units and (b) the Adjustment Factor; *provided*, *however*, that, in the event that the General Partner issues to all holders of REIT Shares as of a certain record date rights, options, warrants or convertible or exchangeable securities entitling the General Partner's stockholders to subscribe for or purchase REIT Shares, or any other securities or property (collectively, the "*Rights*"), with the record date for such Rights issuance falling within the period starting on the date of the Notice of Redemption and ending on the day immediately preceding the Specified Redemption Date, which Rights will not be distributed before the relevant Specified Redemption Date, then the REIT Shares Amount shall also include such Rights that a holder of that number of REIT Shares would be entitled to receive, expressed, where relevant hereunder, in a number of REIT Shares determined by the General Partner.

"*Related Party*" means, with respect to any Person, any other Person to whom ownership of shares of the General Partner's stock by the first such Person would be attributed under Code Section 544 (as modified by Code Section 856(h)(1)(B)) or Code Section 318(a) (as modified by Code Section 856(d)(5)).

"*Rights*" has the meaning set forth in the definition of "*REIT Shares Amount*."

"*Safe Harbors*" has the meaning set forth in Section 11.3.C hereof.

"SCC" means the State Corporation Commission of Virginia.

"*SEC*" means the United States Securities and Exchange Commission.

"*Securities Act*" means the Securities Act of 1933, as amended, and any successor statute thereto, and the rules and regulations of the SEC promulgated thereunder.

"*Special Redemption*" has the meaning set forth in Section 15.1.A hereof.

"*Specified Redemption Date*" means the tenth (10th) Business Day after the receipt by the General Partner of a Notice of Redemption; *provided*, *however*, that no Specified Redemption Date shall occur during the first Twelve-Month Period (except pursuant to a Special Redemption).

"*Stock Option Plans*" means any stock option plan now or hereafter adopted by the Partnership or the General Partner.

"*Subsidiary*" means, with respect to any Person, any corporation or other entity of which a majority of (i) the voting power of the voting equity securities or (ii) the outstanding equity interests is owned, directly or indirectly, by such Person; *provided*, *however*, that, with respect to the Partnership, "Subsidiary" means solely a partnership or limited liability company (taxed, for federal income tax purposes, as a partnership or as a Disregarded Entity and not as an association or publicly traded partnership taxable as a corporation) of which the Partnership is a member or any "taxable REIT subsidiary" of the General Partner in which the Partnership owns shares of stock, unless the ownership of shares of stock of a corporation or other entity (other than a "taxable REIT subsidiary") will not jeopardize the General Partner's status as a REIT or any General Partner Affiliate's status as a "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)), in which event the term "Subsidiary" shall include such corporation or other entity.

"*Substituted Limited Partner*" means a Person who is admitted as a Limited Partner to the Partnership pursuant to the Act and (i) Section 11.4 hereof or (ii) pursuant to any Partnership Unit Designation.

"*Surviving Partnership*" has the meaning set forth in Section 11.2.B(ii) hereof.

"*Tax Items*" has the meaning set forth in Section 6.5.A hereof.

"*Tendered Units*" has the meaning set forth in Section 15.1.A hereof.

"*Tendering Party*" has the meaning set forth in Section 15.1.A hereof.

"*Termination Transaction*" has the meaning set forth in Section 11.2.B hereof.

"*Terminating Capital Transaction*" means any sale or other disposition of all or substantially all of the assets of the Partnership or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the assets of the Partnership, in any case, not in the ordinary course of the Partnership's business.

"*Transfer*" means any sale, assignment, bequest, conveyance, devise, gift (outright or in trust), Pledge, encumbrance, hypothecation, mortgage, exchange, transfer or other disposition or act of alienation, whether voluntary, involuntary or by operation of law; *provided*, *however*, that when the term is used in Article 11 hereof, except as otherwise expressly provided, "Transfer" does not include (a) any Redemption of Partnership Common Units by the Partnership, or acquisition of Tendered Units by the General Partner, pursuant to Section 15.1 hereof or (b) any redemption of Partnership Units pursuant to any Partnership Unit Designation. The terms "Transferred" and "Transferring" have correlative meanings.

"*Twelve-Month Period*" means (a) as to an Original Limited Partner or any Assignee of an Original Limited Partner that is a Qualifying Party, a twelve-month period ending on the day before the first twelve-month anniversary of the date of this Agreement and (b) as to any other Qualifying Party, a twelve-month period ending on the day before the first twelve-month anniversary of such Qualifying Party's first becoming a Holder of Partnership Common Units; *provided*, *however*, that the General Partner may, in its sole and absolute discretion, by written agreement with a Qualifying Party, shorten or lengthen the first Twelve-Month Period to a period of shorter or longer than twelve (12) months with respect to a Qualifying Party other than an Original Limited Partner or an Assignee of an Original Limited Partner.

"*Valuation Date*" means the date of receipt by the General Partner of a Notice of Redemption pursuant to Section 15.1 herein, or such other date as specified herein, or, if such date is not a Business Day, the immediately preceding Business Day.

"*Value*" means, on any Valuation Date with respect to a REIT Share, the average of the daily Market Prices for ten (10) consecutive trading days immediately preceding the Valuation Date (except that the Market Price for the trading day immediately preceding the date of exercise of a stock option under any Stock Option Plans shall be substituted for such average of daily market prices for purposes of Section 4.4 hereof). The term "*Market Price*" on

any date means, with respect to any class or series of outstanding REIT Shares, the Closing Price for such REIT Shares on such date. The "*Closing Price*" on any date means the last sale price for such REIT 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 REIT Shares, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if such REIT Shares are not listed or admitted to trading on the New York Stock Exchange, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such REIT Shares are listed or admitted to trading or, if such REIT 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 principal automated quotation system on which REIT Shares are quoted or, if such REIT 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 REIT Shares selected by the board of directors of the General Partner or, in the event that no trading price is available for such REIT Shares, the fair market value of the REIT Shares, as determined by the board of directors of the General Partner.

In the event that the REIT Shares Amount includes Rights that a holder of REIT Shares would be entitled to receive, then the Value of such Rights shall be determined by the General Partner on the basis of such quotations and other information as it considers appropriate.

"*Vesting Date*" has the meaning set forth in Section 4.4.C.2 hereof.

"*Virginia Courts*" has the meaning set forth in Section 15.9.B hereof.

ARTICLE 2
ORGANIZATIONAL MATTERS

Section 2.1 *Formation*. The Partnership is a limited partnership heretofore formed and continued pursuant to the provisions of the Act and upon the terms and subject to the conditions set forth in this Agreement. Except as expressly provided herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Act. The Partnership Interest of each Partner shall be personal property for all purposes.

Section 2.2 *Name*. The name of the Partnership is "Wheeler Real Estate Investment Trust, L.P." The Partnership's business may be conducted under any other name or names deemed advisable by the General Partner, including the name of the General Partner or any Affiliate thereof. The words "Limited Partnership," "L.P.," "Ltd." or similar words or letters shall be included in the Partnership's name where necessary for the purposes of complying with the laws of any jurisdiction that so requires. The General Partner in its sole and absolute discretion may change the name of the Partnership at any time and from time to time and shall notify the Partners of such change in the next regular communication to the Partners.

Section 2.3 *Principal Office and Resident Agent; Principal Executive Office.* The address of the principal office of the Partnership in the Commonwealth of Virginia is located at Riversedge North, 2529 Virginia Beach Boulevard, Suite 200, Virginia Beach, Virginia 23452, or such other place within the Commonwealth of Virginia as the General Partner may from time to time designate, and the resident agent of the Partnership in the Commonwealth of Virginia is Charles E. Land, Kaufman & Canoles, P.C., 150 West Main Street, Suite 2100, Norfolk, Virginia 23514, or such other resident of the Commonwealth of Virginia as the General Partner may from time to time designate. The principal office of the Partnership is located at Riversedge North, 2529 Virginia Beach Boulevard, Suite 200, Virginia Beach, Virginia 23452, or such other place as the General Partner may from time to time designate by notice to the Limited Partners. The Partnership may maintain offices at such other place or places within or outside the Commonwealth of Virginia as the General Partner deems advisable.

Section 2.4 *Power of Attorney*.

A. Each Limited Partner and Assignee hereby irrevocably constitutes and appoints the General Partner, any Liquidator, and authorized officers and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to:

(1) execute, swear to, seal, acknowledge, deliver, file and record in the appropriate public offices: (a) all

certificates, documents and other instruments (including, without limitation, this Agreement and the Certificate and all amendments, supplements or restatements thereof) that the General Partner or the Liquidator deems appropriate or necessary to form, qualify or continue the existence or qualification of the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the Commonwealth of Virginia and in all other jurisdictions in which the Partnership may conduct business or own property; (b) all instruments that the General Partner or any Liquidator deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement, including, without limitation, a certificate of cancellation; (d) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the distribution or exchange of assets of the Partnership pursuant to the terms of this Agreement; (e) all instruments relating to the admission, acceptance, withdrawal, removal or substitution of any Partner pursuant to the terms of this Agreement or the Capital Contribution of any Partner; and (f) all certificates, documents and other instruments relating to the determination of the rights, preferences and privileges relating to Partnership Interests; and

(2) execute, swear to, acknowledge and file all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole and absolute discretion of the General Partner or any Liquidator, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Partners hereunder or is consistent with the terms of this Agreement.

(3) Nothing contained herein shall be construed as authorizing the General Partner or any Liquidator to amend this Agreement except in accordance with Section 14.2 hereof or as may be otherwise expressly provided for in this Agreement.

B. The foregoing power of attorney is hereby declared to be irrevocable and a special power coupled with an interest, in recognition of the fact that each of the Limited Partners and Assignees will be relying upon the power of the General Partner or the Liquidator to act as contemplated by this Agreement in any filing or other action by it on behalf of the Partnership, and it shall survive and not be affected by the subsequent Incapacity of any Limited Partner or Assignee and the Transfer of all or any portion of such Person's Partnership Interest and shall extend to such Person's heirs, successors, assigns and personal representatives. Each such Limited Partner and Assignee hereby agrees to be bound by any representation made by the General Partner or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Limited Partner and Assignee hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the General Partner or the Liquidator, taken in good faith under such power of attorney. Each Limited Partner and Assignee shall execute and deliver to the General Partner or the Liquidator, within fifteen (15) days after receipt of the General Partner's or the Liquidator's request therefor, such further designation, powers of attorney and other instruments as the General Partner or the Liquidator (as the case may be) deems necessary to effectuate this Agreement and the purposes of the Partnership. Notwithstanding anything else set forth in this Section 2.4.B, no Limited Partner shall incur any personal liability for any action of the General Partner or the Liquidator taken under such power of attorney.

Section 2.5 *Term*. The term of the Partnership commenced on March , 2012, the date that the original Certificate was filed with the SCC in accordance with the Act, and shall continue indefinitely unless the Partnership is dissolved sooner pursuant to the provisions of Article 13 hereof or as otherwise provided by law.

Section 2.6 *Partnership Interests Are Securities*. All Partnership Interests shall be securities within the meaning of, and governed by, (i) Title 8.8A of the Virginia Uniform Commercial Code and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction.

ARTICLE 3
PURPOSE

Section 3.1 *Purpose and Business*. The purpose and nature of the Partnership is to conduct any business, enterprise or activity permitted by or under the Act, including, without limitation, (i) to conduct the business of

acquisition, ownership, construction, reconstruction, development, redevelopment, alteration, improvement, maintenance, operation, sale, leasing, transfer, encumbrance, conveyance and exchange of the Properties, (ii) to acquire and invest in any securities and/or loans relating to the Properties, (iii) to enter into any partnership, joint venture, business trust arrangement, limited liability company or other similar arrangement to engage in any business permitted by or under the Act, or to own interests in any entity engaged in any business permitted by or under the Act, (iv) to conduct the business of providing property and asset management and brokerage services, whether directly or through one or more partnerships, joint ventures, Subsidiaries, business trusts, limited liability companies or similar arrangements, and (v) to do anything necessary or incidental to the foregoing.

Section 3.2 *Powers*.

A. The Partnership shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Partnership including, without limitation, full power and authority, directly or through its ownership interest in other entities, to enter into, perform and carry out contracts of any kind, to borrow and lend money and to issue evidence of indebtedness, whether or not secured by mortgage, deed of trust, pledge or other lien, to acquire, own, manage, improve and develop real property and lease, sell, transfer and dispose of real property.

B. Notwithstanding any other provision in this Agreement, the Partnership shall not take, or refrain from taking, any action that, in the judgment of the General Partner, in its sole and absolute discretion, (i) could adversely affect the ability of the General Partner to continue to qualify as a REIT, (ii) could subject the General Partner to any taxes under Code Section 857 or Code Section 4981 or any other related or successor provision under the Code, or (iii) could violate any law or regulation of any governmental body or agency having jurisdiction over the General Partner, its securities or the Partnership, unless, in any such case, such action (or inaction) under clause (i), clause (ii), or clause (iii) above shall have been specifically Consented to by the General Partner.

Section 3.3 *Partnership Only for Purposes Specified*. The Partnership is a limited partnership formed pursuant to the Act, and this Agreement shall not be deemed to create a company, venture or partnership between or among the Partners or any other Persons with respect to any activities whatsoever other than the activities within the purposes of the Partnership as specified in Section 3.1 hereof. Except as otherwise provided in this Agreement, no Partner shall have any authority to act for, bind, commit or assume any obligation or responsibility on behalf of the Partnership, its properties or any other Partner. No Partner, in its capacity as a Partner under this Agreement, shall be responsible or liable for any indebtedness or obligation of another Partner, nor shall the Partnership be responsible or liable for any indebtedness or obligation of any Partner, incurred either before or after the execution and delivery of this Agreement by such Partner, except as to those responsibilities, liabilities, indebtedness or obligations incurred by such Partner pursuant to and as limited by the terms of this Agreement and the Act.

Section 3.4 *Representations and Warranties by the Partners*.

A. Each Partner that is an individual (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner) represents and warrants to, and covenants with, each other Partner that (i) the consummation of the transactions contemplated by this Agreement to be performed by such Partner will not result in a breach or violation of, or a default under, any material agreement by which such Partner or any of such Partner's property is bound, or any statute, regulation, order or other law to which such Partner is subject, (ii) if nine point eight percent (9.8%) or more (by value) of the Partnership's interests are or will be owned by such Partner within the meaning of Code Section 7704(d)(3), such Partner does not, and for so long as it is a Partner will not, own, directly or indirectly, (a) stock of any corporation that is a tenant of (I) the General Partner, or any Disregarded Entity with respect to the General Partner, (II) the Partnership or (III) any partnership, venture or limited liability company of which the General Partner, any Disregarded Entity with respect to the General Partner, or the Partnership is a direct or indirect member or (b) an interest in the assets or net profits of any non-corporate tenant of (I) the General Partner or any Disregarded Entity with respect to the General Partner, (II) the Partnership or (III) any partnership, venture, or limited liability company of which the General Partner, any Disregarded Entity with respect to the General Partner, or the Partnership is a direct or indirect member, (iii) such Partner has the legal capacity to enter into this Agreement and perform such Partner's obligations hereunder, and (iv) this Agreement is binding upon, and enforceable against, such Partner in accordance with its terms. Notwithstanding the foregoing, a Partner that is an individual shall not be subject to the ownership restrictions set forth in clause (ii) of the immediately preceding sentence to the extent such

Partner obtains the written Consent of the General Partner prior to violating any such restrictions. Each Partner that is an individual shall also represent and warrant to the Partnership that such Partner is neither a "foreign person" within the meaning of Code Section 1445(f) nor a foreign partner within the meaning of Code Section 1446(e).

B. Each Partner that is not an individual (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner) represents and warrants to, and covenants with, each other Partner that (i) all transactions contemplated by this Agreement to be performed by it have been duly authorized by all necessary action, including, without limitation, that of its general partner(s), manager(s), committee(s), trustee(s), beneficiaries, directors and/or stockholder(s) (as the case may be) as required, (ii) the consummation of such transactions shall not result in a breach or violation of, or a default under, its partnership or operating agreement, trust agreement, charter or bylaws (as the case may be) any material agreement by which such Partner or any of such Partner's properties or any of its partners, members, beneficiaries, trustees or stockholders (as the case may be) is or are bound, or any statute, regulation, order or other law to which such Partner or any of its partners, members, trustees, beneficiaries or stockholders (as the case may be) is or are subject, (iii) if nine point eight percent (9.8%) or more (by value) of the Partnership's interests are or will be owned by such Partner within the meaning of Code Section 7704(d)(3), such Partner does not, and for so long as it is a Partner will not, own, directly or indirectly, (a) stock of any corporation that is a tenant of (I) the General Partner or any Disregarded Entity with respect to the General Partner, (II) the Partnership or (III) any partnership, venture or limited liability company of which the General Partner, any General Partner, any Disregarded Entity with respect to the General Partner, or the Partnership is a direct or indirect member or (b) an interest in the assets or net profits of any non-corporate tenant of (I) the General Partner, or any Disregarded Entity with respect to the General Partner, (II) the Partnership or (III) any partnership, venture or limited liability company for which the General Partner, any General Partner, any Disregarded Entity with respect to the General Partner, or the Partnership is a direct or indirect member, and (iv) this Agreement is binding upon, and enforceable against, such Partner in accordance with its terms. Notwithstanding the foregoing, a Partner that is not an individual shall not be subject to the ownership restrictions set forth in clause (iii) of the immediately preceding sentence to the extent such Partner obtains the written Consent of the General Partner prior to violating any such restrictions. Each Partner that is not an individual shall also represent and warrant to the Partnership that such Partner is neither a "foreign person" within the meaning of Code Section 1445(f) nor a foreign partner within the meaning of Code Section 1446(e).

C. Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or Substituted Limited Partner) represents, warrants and agrees that (i) it has acquired and continues to hold its interest in the Partnership for its own account for investment purposes only and not for the purpose of, or with a view toward, the resale or distribution of all or any part thereof in violation of applicable laws, and not with a view toward selling or otherwise distributing such interest or any part thereof at any particular time or under any predetermined circumstances in violation of applicable laws; (ii) it is a sophisticated investor, able and accustomed to handling sophisticated financial matters for itself, particularly real estate investments, and that it has a sufficiently high net worth that it does not anticipate a need for the funds that it has invested in the Partnership in what it understands to be a highly speculative and illiquid investment; and (iii) without the Consent of the General Partner, it shall not take any action that would cause (a) the Partnership at any time to have more than 100 partners, including as partners those Persons ("*Flow-Through Partners*") indirectly owning an interest in the Partnership through an entity treated as a partnership, Disregarded Entity, S corporation or grantor trust (each such entity, a "*Flow-Through Entity*"), but only if substantially all of the value of such Person's interest in the Flow-Through Entity is attributable to the Flow-Through Entity's interest (direct or indirect) in the Partnership; or (b) the Partnership Interest initially issued to such Partner or its predecessors to be held by more than two partners, including as partners any Flow-Through Partners.

D. The representations and warranties contained in Sections 3.4.A, 3.4.B and 3.4.C hereof shall survive the execution and delivery of this Agreement by each Partner (and, in the case of an Additional Limited Partner or a Substituted Limited Partner, the admission of such Additional Limited Partner or Substituted Limited Partner as a Limited Partner in the Partnership) and the dissolution, liquidation and termination of the Partnership.

E. Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or Substituted Limited Partner) hereby acknowledges that no representations as to potential profit, cash flows, funds from operations or yield, if any, in respect of the Partnership or the General Partner have been made by any Partner or any employee or representative or Affiliate of

any Partner, and that projections and any other information, including, without limitation, financial and descriptive information and documentation, that may have been in any manner submitted to such Partner shall not constitute any representation or warranty of any kind or nature, express or implied.

F. Notwithstanding the foregoing, the General Partner may, in its sole and absolute discretion, permit the modification of any of the representations and warranties contained in Sections 3.4.A, 3.4.B and 3.4.C above as applicable to any Partner (including, without limitation any Additional Limited Partner or Substituted Limited Partner or any transferee of either), provided that such representations and warranties, as modified, shall be set forth in either (i) a Partnership Unit Designation applicable to the Partnership Units held by such Partner or (ii) a separate writing addressed to the Partnership and the General Partner.

ARTICLE 4
CAPITAL CONTRIBUTIONS

Section 4.1 *Capital Contributions of the Partners*. The Partners have heretofore made Capital Contributions to the Partnership. Each Partner owns Partnership Units in the amount set forth for such Partner on Exhibit A, as the same may be amended from time to time by the General Partner to the extent necessary to reflect accurately sales, exchanges or other Transfers, redemptions, Capital Contributions, the issuance of additional Partnership Units, or similar events having an effect on a Partner's ownership of Partnership Units. Except as provided by law or in Section 4.2, 4.3, or 10.4 hereof, the Partners shall have no obligation or, except with the prior Consent of the General Partner, right to make any additional Capital Contributions or loans to the Partnership.

Section 4.2 *Issuances of Additional Partnership Interests*. Subject to the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation:

A. *General*. The General Partner is hereby authorized to cause the Partnership to issue additional Partnership Interests, in the form of Partnership Units, for any Partnership purpose, at any time or from time to time, to the Partners (including the General Partner) or to other Persons, and to admit such Persons as Additional Limited Partners, for such consideration and on such terms and conditions as shall be established by the General Partner in its sole and absolute discretion, all without the approval of any Limited Partner or any other Person. Without limiting the foregoing, the General Partner is expressly authorized to cause the Partnership to issue Partnership Units (i) upon the conversion, redemption or exchange of any Debt, Partnership Units, or other securities issued by the Partnership, (ii) for less than fair market value and (iii) in connection with any merger of any other Person into the Partnership. Any additional Partnership Interests may be issued in one or more classes, or one or more series of any of such classes, with such designations, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to distributions, qualifications or terms or conditions of redemption (including, without limitation, terms that may be senior or otherwise entitled to preference over existing Partnership Units) as shall be determined by the General Partner, in its sole and absolute discretion without the approval of any Limited Partner or any other Person, and set forth in a written document thereafter attached to and made an exhibit to this Agreement, which exhibit shall be an amendment to this Agreement and shall be incorporated herein by this reference (each, a "*Partnership Unit Designation*"). Without limiting the generality of the foregoing, the General Partner shall have authority to specify: (a) the allocations of items of Partnership income, gain, loss, deduction and credit to each such class or series of Partnership Interests; (b) the right of each such class or series of Partnership Interests to share (on a *pari passu*, junior or preferred basis) in Partnership distributions; (c) the rights of each such class or series of Partnership Interests upon dissolution and liquidation of the Partnership; (d) the voting rights, if any, of each such class or series of Partnership Interests; and (e) the conversion, redemption or exchange rights applicable to each such class or series of Partnership Interests. Upon the issuance of any additional Partnership Interest, the General Partner shall amend Exhibit A and the books and records of the Partnership as appropriate to reflect such issuance.

B. *Issuances to the General Partner*. No additional Partnership Units shall be issued to the General Partner unless (i) the additional Partnership Units are issued to all Partners in proportion to their respective Percentage Interests, (ii) (a) the additional Partnership Units are (x) Partnership Common Units issued in connection with an issuance of REIT Shares, or (y) Partnership Equivalent Units (other than Partnership Common Units) issued in connection with an issuance of Preferred Shares, New Securities or other interests in the General Partner (other than REIT Shares), and (b) the General Partner contributes to the Partnership the cash proceeds or other consideration received in connection with the issuance of such REIT Shares, Preferred Shares, New Securities or other interests in the General Partner, (iii) the additional Partnership Units are issued upon the conversion, redemption or exchange of

Debt, Partnership Units or other securities issued by the Partnership or (iv) the additional Partnership Units are issued pursuant to Section 4.3.B, Section 4.3.E, Section 4.4 or Section 4.5.

C. *No Preemptive Rights*. Except as specified in Section 4.2.B(i) hereof, no Person, including, without limitation, any Partner or Assignee, shall have any preemptive, preferential, participation or similar right or rights to subscribe for or acquire any Partnership Interest.

Section 4.3 *Additional Funds and Capital Contributions*.

A. *General*. The General Partner may, at any time and from time to time, determine that the Partnership requires additional funds ("*Additional Funds*") for the acquisition or development of additional Properties, for the redemption of Partnership Units or for such other purposes as the General Partner may determine, in its sole and absolute discretion. Additional Funds may be obtained by the Partnership, at the election of the General Partner, in any manner provided in, and in accordance with, the terms of this Section 4.3 without the approval of any Limited Partner or any other Person.

B. *Additional Capital Contributions*. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by accepting Capital Contributions from any Partners or other Persons. In connection with any such Capital Contribution (of cash or property), the General Partner is hereby authorized to cause the Partnership from time to time to issue additional Partnership Units (as set forth in Section 4.2 above) in consideration therefor and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect the issuance of such additional Partnership Units.

C. *Loans by Third Parties*. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to any Person (other than the General Partner (but, for this purpose, disregarding any Debt that may be deemed incurred to the General Partner by virtue of clause (iii) of the definition of Debt)) upon such terms as the General Partner determines appropriate, including making such Debt convertible, redeemable or exchangeable for Partnership Units or REIT Shares; *provided*, *however*, that the Partnership shall not incur any such Debt if any Partner would be personally liable for the repayment of such Debt (unless such Partner otherwise agrees).

D. *General Partner Loans*. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to the General Partner if (i) such Debt is, to the extent permitted by law, on substantially the same terms and conditions (including interest rate, repayment schedule, and conversion, redemption, repurchase and exchange rights) as Funding Debt incurred by the General Partner, the net proceeds of which are loaned to the Partnership to provide such Additional Funds, or (ii) such Debt is on terms and conditions no less favorable to the Partnership than would be available to the Partnership from any third party; *provided*, *however*, that the Partnership shall not incur any such Debt if any Partner would be personally liable for the repayment of such Debt (unless such Partner otherwise agrees).

E. *Issuance of Securities by the General Partner*. The General Partner shall not issue any additional REIT Shares, Capital Shares or New Securities unless the General Partner contributes the cash proceeds or other consideration received from the issuance of such additional REIT Shares, Capital Shares or New Securities (as the case may be) and from the exercise of the rights contained in any such additional Capital Shares or New Securities to the Partnership in exchange for (x) in the case of an issuance of REIT Shares, Partnership Common Units, or (y) in the case of an issuance of Capital Shares or New Securities, Partnership Equivalent Units; *provided*, *however*, that notwithstanding the foregoing, the General Partner may issue REIT Shares, Capital Shares or New Securities (a) pursuant to Section 4.4 or Section 15.1.B hereof, (b) pursuant to a dividend or distribution (including any stock split) of REIT Shares, Capital Shares or New Securities to all of the holders of REIT Shares, Capital Shares or New Securities (as the case may be), (c) upon a conversion, redemption or exchange of Capital Shares, (d) upon a conversion, redemption, exchange or exercise of New Securities, or (e) in connection with an acquisition of Partnership Units or a property or other asset to be owned, directly or indirectly, by the General Partner. In the event of any issuance of additional REIT Shares, Capital Shares or New Securities by the General Partner, and the contribution to the Partnership, by the General Partner, of the cash proceeds or other consideration received from such issuance (or property acquired with such proceeds), if any, if the cash proceeds actually received by the General Partner are less than the gross proceeds of such issuance as a result of any underwriter's discount or other expenses paid or incurred in connection with such issuance, then the General Partner shall be deemed to have made a Capital Contribution to the Partnership in the amount equal to the sum of the cash proceeds of such issuance plus

the amount of such underwriter's discount and other expenses paid by the General Partner (which discount and expense shall be treated as an expense for the benefit of the Partnership for purposes of Section 7.4). In the event that the General Partner issues any additional REIT Shares, Capital Shares or New Securities and contributes the cash proceeds or other consideration received from the issuance thereof to the Partnership, the Partnership is expressly authorized to issue a number of Partnership Common Units or Partnership Equivalent Units to the General Partner equal to the number of REIT Shares, Capital Shares or New Securities so issued, divided by the Adjustment Factor then in effect, in accordance with this Section 4.3.E without any further act, approval or vote of any Partner or any other Persons.

Section 4.4 *Stock Option Plans and Equity Plans*.

A. *Options Granted to Persons other than Partnership Employees*. If at any time or from time to time, in connection with any Stock Option Plan, a stock option granted for REIT Shares to a Person other than a Partnership Employee is duly exercised:

(1) The General Partner, shall, as soon as practicable after such exercise, make a Capital Contribution to the Partnership in an amount equal to the exercise price paid to the General Partner by such exercising party in connection with the exercise of such stock option.

(2) Notwithstanding the amount of the Capital Contribution actually made pursuant to Section 4.4.A(1) hereof, the General Partner shall be deemed to have contributed to the Partnership as a Capital Contribution, in lieu of the Capital Contribution actually made and in consideration of an additional Limited Partner Interest (expressed in and as additional Partnership Common Units), an amount equal to the Value of a REIT Share as of the date of exercise multiplied by the number of REIT Shares then being issued in connection with the exercise of such stock option.

(3) An equitable Percentage Interest adjustment shall be made in which the General Partner shall be treated as having made a cash contribution equal to the amount described in Section 4.4.A(2) hereof.

B. *Options Granted to Partnership Employees*. If at any time or from time to time, in connection with any Stock Option Plan, a stock option granted for REIT Shares to a Partnership Employee is duly exercised:

(1) The General Partner shall sell to the Optionee, and the Optionee shall purchase from the General Partner, for a cash price per share equal to the Value of a REIT Share at the time of the exercise, the number of REIT Shares equal to (a) the exercise price payable by the Optionee in connection with the exercise of such stock option divided by (b) the Value of a REIT Share at the time of such exercise.

(2) The General Partner shall sell to the Partnership (or if the Optionee is an employee or other service provider of a Subsidiary of the Partnership, the General Partner shall sell to such Subsidiary of the Partnership), and the Partnership (or such subsidiary, as applicable) shall purchase from the General Partner, a number of REIT Shares equal to (a) the number of REIT Shares as to which such stock option is being exercised less (b) the number of REIT Shares sold pursuant to Section 4.4.B(1) hereof. The purchase price per REIT Share for such sale of REIT Shares to the Partnership (or such subsidiary) shall be the Value of a REIT Share as of the date of exercise of such stock option.

(3) The Partnership shall transfer to the Optionee (or if the Optionee is an employee or other service provider of a Subsidiary of the Partnership, such Subsidiary shall transfer to the Optionee) at no additional cost, as additional compensation, the number of REIT Shares described in Section 4.4.B(2) hereof.

(4) The General Partner shall, as soon as practicable after such exercise, make a Capital Contribution to the Partnership of an amount equal to all proceeds received (from whatever source, but excluding any payment in respect of payroll taxes or other withholdings) by the General Partner in connection with the exercise of such stock option. An equitable Percentage Interest adjustment shall be made as a result of such contribution.

C. *Restricted Stock Granted to Persons other than Partnership Employees*. If at any time or from time to time, in connection with any Equity Plan (other than a Stock Option Plan), any REIT Shares are issued to a Person other than a Partnership Employee in consideration for services performed for the General Partner:

(1) The General Partner shall issue such number of REIT Shares as are to be issued to such Person in accordance with the Equity Plan; and

(2) On the date (such date, the "*Vesting Date*") that the Value of such shares is includible in taxable income of such Person, the following events will be deemed to have occurred: (a) the General Partner shall be deemed to have contributed the Value of such REIT Shares to the Partnership as a Capital Contribution, and (b) the Partnership shall issue to the General Partner on the Vesting Date a number of Common Units equal to the number of newly issued REIT Shares divided by the Adjustment Factor then in effect.

D. *Restricted Stock Granted to Partnership Employees*. If at any time or from time to time, in connection with any Equity Plan (other than a Stock Option Plan), any REIT Shares are issued to a Partnership Employee (including any REIT Shares that are subject to forfeiture in the event such Partnership Employee terminates his employment by the Partnership or the Partnership Subsidiaries) in consideration for services performed for the Partnership or the Partnership Subsidiaries:

(1) The General Partner shall issue such number of REIT Shares as are to be issued to the Partnership Employee in accordance with the Equity Plan;

(2) On the Vesting Date, the following events will be deemed to have occurred: (a) the General Partner shall be deemed to have sold such shares to the Partnership (or if the Partnership Employee is an employee or other service provider of a Subsidiary of the Partnership, to such Subsidiary) for a purchase price equal to the Value of such shares, (b) the Partnership (or such Subsidiary) shall be deemed to have delivered the shares to the Partnership Employee, (c) the General Partner shall be deemed to have contributed the purchase price to the Partnership as a Capital Contribution, and (d) in the case where the Partnership Employee is an employee of a Subsidiary of the Partnership, the Partnership shall be deemed to have contributed such amount to the capital of such Subsidiary; and

(3) The Partnership shall issue to the General Partner on the Vesting Date a number of Common Units equal to the number of newly issued REIT Shares divided by the Adjustment Factor then in effect in consideration for the Capital Contribution described in Section 4.4.D(2)(c) above.

E. *Future Stock Incentive Plans*. Nothing in this Agreement shall be construed or applied to preclude or restrain the General Partner from adopting, modifying or terminating stock incentive plans for the benefit of employees, directors or other business associates of the General Partner, the Partnership or any of their Affiliates. The Partners acknowledge and agree that, in the event that any such plan is adopted, modified or terminated by the General Partner, amendments to this Section 4.4 may become necessary or advisable and that any approval or Consent to any such amendments requested by the General Partner shall be deemed granted by the Limited Partners.

F. *Issuance of Partnership Common Units*. The Partnership is expressly authorized to issue Partnership Common Units in accordance with any duly authorized Stock Option Plan or Equity Plan pursuant to this Section 4.4 without any further act, approval or vote of any Partner or any other Persons.

Section 4.5 *Dividend Reinvestment Plan, Cash Option Purchase Plan, Stock Incentive Plan or Other Plan*. Except as may otherwise be provided in this Article 4, all amounts received or deemed received by the General Partner in respect of any dividend reinvestment plan, cash option purchase plan, stock incentive or other stock or subscription plan or agreement, either (a) shall be utilized by the General Partner to effect open market purchases of REIT Shares, or (b) if the General Partner elects instead to issue new REIT Shares with respect to such amounts, shall be contributed by the General Partner to the Partnership in exchange for additional Partnership Common Units. Upon such contribution, the Partnership will issue to the General Partner a number of Partnership Common Units equal to the quotient of (i) the new REIT Shares so issued, divided by (ii) the Adjustment Factor then in effect.

Section 4.6 *No Interest; No Return*. No Partner shall be entitled to interest on its Capital Contribution or on such Partner's Capital Account. Except as provided herein or by law, no Partner shall have any right to demand or receive the return of its Capital Contribution from the Partnership.

Section 4.7 *Conversion or Redemption of Capital Shares*.

A. *Conversion of Capital Shares*. If, at any time, any of the Capital Shares are converted into REIT Shares, in whole or in part, then a number of Partnership Units with preferences, conversion and other rights, restrictions (other than restrictions on transfer), rights and limitations as to distributions and qualifications that are substantially the same as those of such Capital Shares ("*Partnership Equivalent Units*") (for the avoidance of doubt, Partnership Equivalent Units need not have voting rights, redemption rights or restrictions on transfer that are substantially

similar to such Capital Shares) equal to the number of Capital Shares so converted shall automatically be converted into a number of Partnership Common Units equal to the quotient of (i) the number of REIT Shares issued upon such conversion divided by (ii) the Adjustment Factor then in effect, and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect such conversion.

B. *Redemption of Capital Shares or REIT Shares*. Except as otherwise provided in Section 7.4.C., if, at any time, any Capital Shares are redeemed or otherwise repurchased (whether by exercise of a put or call, automatically or by means of another arrangement) by the General Partner for cash, the Partnership shall, immediately prior to such redemption or repurchase of Capital Shares, redeem or repurchase an equal number of Partnership Equivalent Units held by the General Partner upon the same terms and for the same price per Partnership Equivalent Unit as such Capital Shares are redeemed. If, at any time, any REIT Shares are redeemed or otherwise repurchased by the General Partner, the Partnership shall, immediately prior to such redemption or repurchase of REIT Shares, redeem or repurchase a number of Partnership Common Units held by the General Partner equal to the quotient of (i) the REIT Shares so redeemed or repurchased, divided by (ii) the Adjustment Factor then in effect, such redemption or repurchase to be upon the same terms and for the same price per Partnership Common Unit (after giving effect to application of the Adjustment Factor) as such REIT Shares are redeemed or repurchased.

Section 4.8 *Other Contribution Provisions*. In the event that any Partner is admitted to the Partnership and is given a Capital Account in exchange for services rendered to the Partnership, such transaction shall be treated by the Partnership and the affected Partner as if the Partnership had compensated such partner in cash and such Partner had contributed the cash that the Partner would have received to the capital of the Partnership. In addition, with the Consent of the General Partner, one or more Partners may enter into contribution agreements with the Partnership which have the effect of providing a guarantee of certain obligations of the Partnership (and/or a wholly-owned Subsidiary of the Partnership).

ARTICLE 5
DISTRIBUTIONS

Section 5.1 *Requirement and Characterization of Distributions*. Subject to the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation, the General Partner may cause the Partnership to distribute such amounts, at such times, as the General Partner may, in its sole and absolute discretion, determine, to the Holders as of any Partnership Record Date: (i) first, with respect to any Partnership Units that are entitled to any preference in distribution, in accordance with the rights of Holders of such class(es) of Partnership Units (and, within each such class, among the Holders of each such class, pro rata in proportion to their respective Percentage Interests of such class on such Partnership Record Date); and (ii) second, with respect to any Partnership Units that are not entitled to any preference in distribution, in accordance with the rights of Holders of such class(es) of Partnership Units, as applicable (and, within each such class, among the Holders of each such class, pro rata in proportion to their respective Percentage Interests of such class on such Partnership Record Date). Distributions payable with respect to any Partnership Units, other than any Partnership Units issued to the General Partner in connection with the issuance of REIT Shares by the General Partner, that were not outstanding during the entire quarterly period in respect of which any distribution is made shall be prorated based on the portion of the period that such Partnership Units were outstanding. The General Partner shall make such reasonable efforts, as determined by it in its sole and absolute discretion and consistent with the General Partner's qualification as a REIT, to cause the Partnership to distribute sufficient amounts to enable the General Partner, for so long as the General Partner has determined to qualify as a REIT, to pay stockholder dividends that will (a) satisfy the requirements for qualifying as a REIT under the Code and Regulations (the "*REIT Requirements*") and (b) except to the extent otherwise determined by the General Partner, eliminate any U.S. federal income or excise tax liability of the General Partner.

Section 5.2 *Distributions in Kind*. Except as expressly provided herein, no right is given to any Holder to demand and receive property other than cash as provided in this Agreement. The General Partner may determine, in its sole and absolute discretion, to make a distribution in kind of Partnership assets to the Holders, and such assets shall be distributed in such a fashion as to ensure that the fair market value is distributed and allocated in accordance with Articles 5, 6 and 13 hereof; *provided*, *however*, that the General Partner shall not make a distribution in kind to any Holder unless the Holder has been given 90 days prior written notice of such distribution.

Section 5.3 *Amounts Withheld*. All amounts withheld pursuant to the Code or any provisions of any state, local or non-United States tax law and Section 10.4 hereof with respect to any allocation, payment or distribution to any

Holder shall be treated as amounts paid or distributed to such Holder pursuant to Section 5.1 hereof for all purposes under this Agreement.

Section 5.4 *Distributions upon Liquidation*. Notwithstanding the other provisions of this Article 5, net proceeds from a Terminating Capital Transaction, and any other amounts distributed after the occurrence of a Liquidating Event, shall be distributed to the Holders in accordance with Section 13.2 hereof.

Section 5.5 *Distributions to Reflect Additional Partnership Units*. In the event that the Partnership issues additional Partnership Units pursuant to the provisions of Article 4 hereof, subject to the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation, the General Partner is hereby authorized to make such revisions to this Article 5 and to Articles 6, 11 and 12 hereof as it determines are necessary or desirable to reflect the issuance of such additional Partnership Units, including, without limitation, making preferential distributions to Holders of certain classes of Partnership Units.

Section 5.6 *Restricted Distributions*. Notwithstanding any provision to the contrary contained in this Agreement, neither the Partnership nor the General Partner, on behalf of the Partnership, shall make a distribution to any Holder if such distribution would violate the Act or other applicable law.

ARTICLE 6
ALLOCATIONS

Section 6.1 *Timing and Amount of Allocations of Net Income and Net Loss*. Net Income and Net Loss of the Partnership shall be determined and allocated with respect to each Partnership Year as of the end of each such year, provided that the General Partner may in its discretion allocate Net Income and Net Loss for a shorter period as of the end of such period (and, for purposes of this Article 6, references to the term "Partnership Year" may include such shorter periods). Except as otherwise provided in this Article 6, and subject to Section 11.6.C hereof, an allocation to a Holder of a share of Net Income or Net Loss shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Income or Net Loss.

Section 6.2 *General Allocations*. Except as otherwise provided in this Article 6, and Section 11.6.C hereof, Net Income and Net Loss for any Partnership Year shall be allocated to each of the Holders as follows:

A. *Net Income*.

(i) First, 100% to the General Partner in an amount equal to the remainder, if any, of the cumulative Net Losses allocated to the General Partner pursuant to clause (iii) in Section 6.2.B for all prior Partnership Years minus the cumulative Net Income allocated to the General Partner pursuant to this clause (i) for all prior Partnership Years;

(ii) Second, 100% to each Holder in an amount equal to the remainder, if any, of the cumulative Net Losses allocated to each such Holder pursuant to clause (ii) in Section 6.2.B for all prior Partnership Years minus the cumulative Net Income allocated to such Holder pursuant to this clause (ii) for all prior Partnership Years; and

(iii) Third, 100% to the Holders of Partnership Common Units in accordance with their respective Percentage Interests in the Partnership Common Units.

To the extent the allocations of Net Income set forth above in any paragraph of this Section 6.2.A are not sufficient to entirely satisfy the allocation set forth in such paragraph, such allocation shall be made in proportion to the total amount that would have been allocated pursuant to such paragraph without regard to such shortfall.

B. *Net Losses*.

(i) First, 100% to the Holders of Partnership Common Units in accordance with their respective Percentage Interests in the Partnership Common Units (to the extent consistent with this clause (i)) until the Adjusted Capital Account (ignoring for this purpose any amounts a Holder is obligated to contribute to the capital of the Partnership or is deemed obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c)(2)) of all such Holders is zero;

(ii) Second, 100% to the Holders (other than the General Partner) to the extent of, and in proportion to, the positive balance (if any) in their Adjusted Capital Accounts; and

(iii) Third, 100% to the General Partner.

C. *Allocations to Reflect Issuance of Additional Partnership Interests*. In the event that the Partnership issues additional Partnership Interests to the General Partner or any Additional Limited Partner pursuant to Section 4.2 or 4.3, the General Partner shall make such revisions to this Section 6.2 or to Section 12.2.C or 13.2.A as it determines are necessary to reflect the terms of the issuance of such additional Partnership Interests, including making preferential allocations to certain classes of Partnership Interests, subject to the terms of any Partnership Unit Designation with respect to Partnership Interests then outstanding.

Section 6.3 *Additional Allocation Provisions*. Notwithstanding the foregoing provisions of this Article 6:

A. *Special Allocations Upon Liquidation*. Notwithstanding any provision in this Article 6 to the contrary, in the event that the Partnership disposes of all or substantially all of its assets in a transaction that will lead to a liquidation of the Partnership pursuant to Article 13 hereof, then any Net Income or Net Loss realized in connection with such transaction and thereafter (and, if necessary, constituent items of income, gain, loss and deduction) shall be specially allocated for such Partnership Year (and to the extent permitted by Section 761(c) of the Code, for the immediately preceding Partnership Year) among the Holders as required so as to cause liquidating distributions pursuant to Section 13.2.A(4) hereof to be made in the same amounts and proportions as would have resulted had such distributions instead been made pursuant to Article 5 hereof. In addition, if there is an adjustment to the Gross Asset Value of the assets of the Partnership pursuant to paragraph (b) of the definition of Gross Asset Value, allocations of Net Income or Net Loss arising from such adjustment shall be allocated in the same manner as described in the prior sentence.

B. *Offsetting Allocations*. Notwithstanding the provisions of Sections 6.1, 6.2.A and 6.2.B, but subject to Sections 6.3 and 6.4, in the event Net Income or items thereof are being allocated to a Partner to offset prior Net Loss or items thereof which have been allocated to such Partner, the General Partner shall attempt to allocate such offsetting Net Income or items thereof which are of the same or similar character (including without limitation Section 704(b) book items versus tax items) to the original allocations with respect to such Partner.

C. *CODI Allocations*. Notwithstanding anything to the contrary contained herein, if any indebtedness of the Partnership encumbering the Properties contributed to the Partnership in connection with the General Partner's initial public offering is settled or paid off at a discount, any resulting COD Income of the Partnership shall be specially allocated proportionately (as determined by the General Partner) to those Holders that were partners in entities that contributed, or were deemed to contribute, the applicable Property to the Partnership in connection with such initial public offering to the extent the number of Partnership Units received by such Holders in exchange for their interests in such entities was determined, in part, by taking into account the anticipated discounted settlement or pay-off of such indebtedness. For purposes of the foregoing, "COD Income" shall mean income recognized by the Partnership pursuant to Code Section 61(a)(12).

Section 6.4 *Regulatory Allocation Provisions*. Notwithstanding the foregoing provisions of this Article 6:

A. *Regulatory Allocations*.

(i) *Minimum Gain Chargeback.* Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding the provisions of Section 6.2 hereof, or any other provision of this Article 6, if there is a net decrease in Partnership Minimum Gain during any Partnership Year, each Holder shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partnership Minimum Gain, as determined under Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Holder pursuant thereto. The items to be allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 6.4.A(i) is intended to qualify as a "minimum gain chargeback" within the meaning of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(ii) *Partner Minimum Gain Chargeback.* Except as otherwise provided in Regulations Section 1.704-2(i)(4) or in Section 6.4.A(i) hereof, if there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership Year, each Holder who has a share of the Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partner

Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Holder pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 6.4.A(ii) is intended to qualify as a "chargeback of partner nonrecourse debt minimum gain" within the meaning of Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(iii) *Nonrecourse Deductions and Partner Nonrecourse Deductions*. Any Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holders in accordance with their respective Percentage Interests. Any Partner Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holder(s) who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable, in accordance with Regulations Section 1.704-2(i).

(iv) *Qualified Income Offset*. If any Holder unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be specially allocated, in accordance with Regulations Section 1.704-1(b)(2)(ii)(d), to such Holder in an amount and manner sufficient to eliminate, to the extent required by such Regulations, the Adjusted Capital Account Deficit of such Holder as quickly as possible, provided that an allocation pursuant to this Section 6.4.A(iv) shall be made if and only to the extent that such Holder would have an Adjusted Capital Account Deficit after all other allocations provided in this Article 6 have been tentatively made as if this Section 6.4.A(iv) were not in the Agreement. It is intended that this Section 6.4.A(iv) qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(v) *Gross Income Allocation*. In the event that any Holder has a deficit Capital Account at the end of any Partnership Year that is in excess of the sum of (1) the amount (if any) that such Holder is obligated to restore to the Partnership upon complete liquidation of such Holder's Partnership Interest (including, the Holder's interest in outstanding Partnership Preferred Units and other Partnership Units) and (2) the amount that such Holder is deemed to be obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c) or the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Holder shall be specially allocated items of Partnership income and gain in the amount of such excess to eliminate such deficit as quickly as possible, provided that an allocation pursuant to this Section 6.4.A(v) shall be made if and only to the extent that such Holder would have a deficit Capital Account in excess of such sum after all other allocations provided in this Article 6 have been tentatively made as if this Section 6.4.A(v) and Section 6.4.A(iv) hereof were not in the Agreement.

(vi) *Limitation on Allocation of Net Loss*. To the extent that any allocation of Net Loss would cause or increase an Adjusted Capital Account Deficit as to any Holder, such allocation of Net Loss shall be reallocated (x) first, among the other Holders of Partnership Common Units in accordance with their respective Percentage Interests with respect to Partnership Common Units and (y) thereafter, among the Holders of other classes of Partnership Units as determined by the General Partner, subject to the limitations of this Section 6.4.A(vi).

(vii) *Section 754 Adjustment*. To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Holder in complete liquidation of its interest in the Partnership, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Holders in accordance with their respective Percentage Interests in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Holder(s) to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(viii) *Curative Allocations*. The allocations set forth in Sections 6.4.A(i), (ii), (iii), (iv), (v), (vi) and (vii) hereof (the "*Regulatory Allocations*") are intended to comply with certain regulatory requirements, including the requirements of Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding the provisions of Sections 6.1 and 6.2 hereof, the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Holders so that to the extent possible without violating the requirements giving rise to the Regulatory Allocations, the net amount of such allocations of other items and

the Regulatory Allocations to each Holder shall be equal to the net amount that would have been allocated to each such Holder if the Regulatory Allocations had not occurred.

B. *Allocation of Excess Nonrecourse Liabilities*. For purposes of determining a Holder's proportional share of the "excess nonrecourse liabilities" of the Partnership within the meaning of Regulations Section 1.752-3(a)(3), each Holder's respective interest in Partnership profits shall be equal to such Holder's Percentage Interest with respect to Partnership Common Units, except as otherwise determined by the General Partner.

Section 6.5 *Tax Allocations*.

A. *In General*. Except as otherwise provided in this Section 6.5, for income tax purposes under the Code and the Regulations, each Partnership item of income, gain, loss and deduction (collectively, "*Tax Items*") shall be allocated among the Holders in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Sections 6.2 and 6.3 hereof.

B. *Section 704(c) Allocations*. Notwithstanding Section 6.5.A hereof, Tax Items with respect to Property that is contributed to the Partnership with an initial Gross Asset Value that varies from its basis in the hands of the contributing Partner immediately preceding the date of contribution shall be allocated among the Holders for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) so as to take into account such variation. With respect to Partnership Property that is contributed to the Partnership in connection with the General Partner's initial public offering, such variation between basis and initial Gross Asset Value shall be taken into account under the "traditional method" as described in Regulations Section 1.704-3(b). With respect to other Properties, the Partnership shall account for such variation under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the General Partner. In the event that the Gross Asset Value of any Partnership asset is adjusted pursuant to subsection (b) of the definition of "Gross Asset Value" (provided in Article 1 hereof), subsequent allocations of Tax Items with respect to such asset shall take account of the variation, if any, between the adjusted basis of such asset and its Gross Asset Value in the same manner as under Code Section 704(c) and the applicable Regulations and using the method chosen by the General Partner; *provided*, *however*, that the "traditional method" as described in Regulations Section 1.704-3(b) shall be used with respect to Partnership Property that is contributed to the Partnership in connection with the General Partner's initial public offering. Allocations pursuant to this Section 6.5.B are solely for purposes of Federal, state and local income taxes and shall not affect, or in any way be taken into account in computing, any Partner's Capital Account or share of Net Income, Net Loss, or any other items or distributions pursuant to any provision of this Agreement.

ARTICLE 7
MANAGEMENT AND OPERATIONS OF BUSINESS

Section 7.1 *Management.*

A. Except as otherwise expressly provided in this Agreement, including any Partnership Unit Designation, all management powers over the business and affairs of the Partnership are and shall be exclusively vested in the General Partner, and no Limited Partner shall have any right to participate in or exercise control or management power over the business and affairs of the Partnership. No General Partner may be removed by the Partners, with or without cause, except with the Consent of the General Partner. In addition to the powers now or hereafter granted a general partner of a limited partnership under applicable law or that are granted to the General Partner under any other provision of this Agreement, the General Partner, subject to the other provisions hereof including, without limitation, Section 3.2 and Section 7.3, and the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation, shall have full and exclusive power and authority, without the consent or approval of any Limited Partner, to do or authorize all things deemed necessary or desirable by it to conduct the business and affairs of the Partnership, to exercise or direct the exercise of all of the powers of the Partnership and the General Partner under the Act and this Agreement and to effectuate the purposes of the Partnership including, without limitation:

(1) the making of any expenditures, the lending or borrowing of money or selling of assets (including, without limitation, making prepayments on loans and borrowing money to permit the Partnership to make distributions to the Holders in such amounts as will permit the General Partner to prevent the imposition of any federal income tax on the General Partner (including, for this purpose, any excise tax pursuant to Code Section 4981), to make distributions to its stockholders and payments to any taxing authority sufficient to permit the General

Partner to maintain REIT status or otherwise to satisfy the REIT Requirements), the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness (including the securing of same by deed to secure debt, mortgage, deed of trust or other lien or encumbrance on the Partnership's assets) and the incurring of any obligations that the General Partner deems necessary for the conduct of the activities of the Partnership;

(2) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Partnership;

(3) the taking of any and all acts necessary or prudent to ensure that the Partnership will not be classified as a "publicly traded partnership" under Code Section 7704;

(4) subject to Section 11.2 hereof, the acquisition, sale, transfer, exchange or other disposition of any, all or substantially all of the assets (including the goodwill) of the Partnership (including, but not limited to, the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Partnership) or the merger, consolidation, reorganization or other combination of the Partnership with or into another entity;

(5) the mortgage, pledge, encumbrance or hypothecation of any assets of the Partnership, the assignment of any assets of the Partnership in trust for creditors or on the promise of the assignee to pay the debts of the Partnership, the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms that the General Partner sees fit, including, without limitation, the financing of the operations and activities of the General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, the General Partner and/or the Partnership's Subsidiaries) and the repayment of obligations of the Partnership, its Subsidiaries and any other Person in which the Partnership has an equity investment, and the making of capital contributions to and equity investments in the Partnership's Subsidiaries;

(6) the management, operation, leasing, landscaping, repair, alteration, demolition, replacement or improvement of any Property;

(7) the negotiation, execution and performance of any contracts, including leases (including ground leases), easements, management agreements, rights of way and other property-related agreements, conveyances or other instruments that the General Partner considers useful or necessary to the conduct of the Partnership's operations or the implementation of the General Partner's powers under this Agreement, including contracting with contractors, developers, consultants, governmental authorities, accountants, legal counsel, other professional advisors and other agents and the payment of their expenses and compensation, as applicable, out of the Partnership's assets;

(8) the distribution of Partnership cash or other Partnership assets in accordance with this Agreement, the holding, management, investment and reinvestment of cash and other assets of the Partnership, and the collection and receipt of revenues, rents and income of the Partnership;

(9) the selection and dismissal of employees of the Partnership (if any) or the General Partner (including, without limitation, employees having titles or offices such as "president," "vice president," "secretary" and "treasurer"), and agents, outside attorneys, accountants, consultants and contractors of the Partnership or the General Partner and the determination of their compensation and other terms of employment or hiring;

(10) the maintenance of such insurance (including, without limitation, directors and officers insurance) for the benefit of the Partnership and the Partners (including, without limitation, the General Partner) as the General Partner deems necessary or appropriate;

(11) the formation of, or acquisition of an interest in, and the contribution of property to, any further limited or general partnerships, limited liability companies, joint ventures or other relationships that it deems desirable (including, without limitation, the acquisition of interests in, and the contributions of property to, any Subsidiary and any other Person in which the General Partner has an equity investment from time to time); *provided*, *however*, that, as long as the General Partner has determined to continue to qualify as a REIT, the Partnership will not engage in any such formation, acquisition or contribution that would cause the General Partner to fail to qualify as a REIT;

(12) the control of any matters affecting the rights and obligations of the Partnership, including the settlement, compromise, submission to arbitration or any other form of dispute resolution, or abandonment, of any claim, cause of action, liability, debt or damages, due or owing to or from the Partnership, the commencement or

defense of suits, legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, and the representation of the Partnership in all suits or legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, the incurring of legal expense, and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(13) the undertaking of any action in connection with the Partnership's direct or indirect investment in any Subsidiary or any other Person (including, without limitation, the contribution or loan of funds by the Partnership to such Persons);

(14) the determination of the fair market value of any Partnership property distributed in kind using such reasonable method of valuation as the General Partner may adopt; *provided*, *however*, that such methods are otherwise consistent with the requirements of this Agreement;

(15) the enforcement of any rights against any Partner pursuant to representations, warranties, covenants and indemnities relating to such Partner's contribution of property or assets to the Partnership;

(16) the exercise, directly or indirectly, through any attorney-in-fact acting under a general or limited power of attorney, of any right, including the right to vote, appurtenant to any asset or investment held by the Partnership;

(17) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of or in connection with any Subsidiary of the Partnership or any other Person in which the Partnership has a direct or indirect interest, or jointly with any such Subsidiary or other Person;

(18) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of any Person in which the Partnership does not have an interest, pursuant to contractual or other arrangements with such Person;

(19) the making, execution and delivery of any and all deeds, leases, notes, deeds to secure debt, mortgages, deeds of trust, security agreements, conveyances, contracts, guarantees, warranties, indemnities, waivers, releases, confessions of judgment or any other legal instruments or agreements in writing necessary or appropriate in the judgment of the General Partner for the accomplishment of any of the powers of the General Partner enumerated in this Agreement;

(20) the issuance of additional Partnership Units in connection with Capital Contributions by Additional Limited Partners and additional Capital Contributions by Partners pursuant to Article 4 hereof;

(21) an election to dissolve the Partnership pursuant to Section 13.1.B hereof;

(22) the distribution of cash to acquire Partnership Common Units held by a Limited Partner in connection with a Redemption under Section 15.1 hereof;

(23) an election to acquire Tendered Units in exchange for REIT Shares;

(24) the amendment and restatement of Exhibit A hereto to reflect accurately at all times the Capital Contributions and Percentage Interests of the Partners as the same are adjusted from time to time to the extent necessary to reflect redemptions, Capital Contributions, the issuance of Partnership Units, the admission of any Additional Limited Partner or any Substituted Limited Partner or otherwise, which amendment and restatement, notwithstanding anything in this Agreement to the contrary, shall not be deemed an amendment to this Agreement, as long as the matter or event being reflected in Exhibit A hereto otherwise is authorized by this Agreement; and

(25) the registration of any class of securities of the Partnership under the Securities Act or the Exchange Act, and the listing of any debt securities of the Partnership on any exchange.

B. Each of the Limited Partners agrees that, except as provided in Section 7.3 hereof and subject to the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation, the General Partner is authorized to execute and deliver any affidavit, agreement, certificate, consent, instrument, notice, power of attorney, waiver or other writing or document in the name and on behalf of the Partnership and to otherwise exercise any power of the General Partner under this Agreement and the Act on behalf of the Partnership without any further act, approval or vote of the Partners or any other Persons, notwithstanding any other provision of the Act or any applicable law, rule or regulation and, in the absence of any specific corporate action on the part of the General Partner to the contrary, the taking of any action or the execution of any such document or writing by an officer of the General Partner, in the name and on behalf of the General Partner, in its capacity as the general partner of the Partnership, shall conclusively evidence (1) the approval thereof by the General Partner, in its capacity as the

general partner of the Partnership, (2) the General Partner's determination that such action, document or writing is necessary or desirable to conduct the business and affairs of the Partnership, exercise the powers of the Partnership under this Agreement and the Act or effectuate the purposes of the Partnership, or any other determination by the General Partner required by this Agreement in connection with the taking of such action or execution of such document or writing, and (3) the authority of such officer with respect thereto.

C. At all times from and after the date hereof, the General Partner may cause the Partnership to obtain and maintain (i) casualty, liability and other insurance on the Properties and (ii) liability insurance for the Indemnitees hereunder.

D. At all times from and after the date hereof, the General Partner may cause the Partnership to establish and maintain working capital and other reserves in such amounts as the General Partner, in its sole and absolute discretion, deems appropriate and reasonable from time to time.

E. In exercising its authority under this Agreement, the General Partner may, but shall be under no obligation to, take into account the tax consequences to any Partner of any action taken (or not taken) by it. The General Partner and the Partnership shall not have liability to a Limited Partner under any circumstances as a result of any income tax liability incurred by such Limited Partner as a result of an action (or inaction) by the General Partner pursuant to its authority under this Agreement.

F. The determination as to any of the following matters, made by or at the direction of the General Partner consistent with the this Agreement and the Act, shall be final and conclusive and shall be binding upon the Partnership and every Limited Partner: the amount of assets at any time available for distribution or the redemption of Partnership Common Units; the amount and timing of any distribution; any determination to redeem Tendered Units; the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been paid or discharged); the amount of any Partner's Capital Account, Adjusted Capital Account or Adjusted Capital Account Deficit; the amount of Net Income, Net Loss or Depreciation for any period; the Gross Asset Value of any Partnership asset; the Value of any REIT Share; any interpretation of the terms, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to dividends or distributions, qualifications or terms or conditions of redemption of any class or series of Partnership Interest; the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Partnership or of any Partnership Interest; the number of authorized or outstanding Units of any class or series; any matter relating to the acquisition, holding and disposition of any assets by the Partnership; or any other matter relating to the business and affairs of the Partnership or required or permitted by applicable law, this Agreement or otherwise to be determined by the General Partner.

Section 7.2 *Certificate of Limited Partnership*. To the extent that such action is determined by the General Partner to be reasonable and necessary or appropriate, the General Partner shall file amendments to and restatements of the Certificate and do all the things to maintain the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) under the laws of the Commonwealth of Virginia and each other state, the District of Columbia or any other jurisdiction, in which the Partnership may elect to do business or own property. Subject to the terms of Section 8.5.A hereof, the General Partner shall not be required, before or after filing, to deliver or mail a copy of the Certificate or any amendment thereto to any Limited Partner. The General Partner shall use all reasonable efforts to cause to be filed such other certificates or documents as may be reasonable and necessary or appropriate for the formation, continuation, qualification and operation of a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the Commonwealth of Virginia and any other state, or the District of Columbia or other jurisdiction, in which the Partnership may elect to do business or own property.

Section 7.3 *Restrictions on General Partner's Authority*.

A. The General Partner may not take any action in contravention of an express prohibition or limitation of this Agreement without the Consent of the Limited Partners, and may not, without limitation:

(1) take any action that would make it impossible to carry on the ordinary business of the Partnership, except as otherwise provided in this Agreement;

(2) perform any act that would subject a Limited Partner to liability as a general partner in any jurisdiction or any other liability except as provided herein or under the Act; or

(3) enter into any contract, mortgage, loan or other agreement that expressly prohibits or restricts (a) the General Partner or the Partnership from performing its specific obligations under Section 15.1 hereof in full or (b) a Limited Partner from exercising its rights under Section 15.1 hereof to effect a Redemption in full, except, in either case, with the Consent of each Limited Partner affected by the prohibition or restriction.

B. Except as provided in Section 7.3.C hereof, the General Partner shall not, without the prior Consent of the Partners, amend, modify or terminate this Agreement. Further, no amendment may alter the restrictions on the General Partner's authority set forth elsewhere in this Agreement (including, without limitation, this Section 7.3) without the Consent specified therein and no amendment may alter Section 11.2 hereof without the Consent of the Limited Partners.

C. Notwithstanding Section 7.3.B and 14.2 hereof but subject to the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation, the General Partner shall have the power, without the Consent of the Partners, to amend this Agreement as may be required to facilitate or implement any of the following purposes:

(1) to add to the obligations of the General Partner or surrender any right or power granted to the General Partner or any Affiliate of the General Partner for the benefit of the Limited Partners;

(2) to reflect the admission, substitution or withdrawal of Partners, the Transfer of any Partnership Interest, the termination of the Partnership in accordance with this Agreement;

(3) to reflect a change that is of an inconsequential nature or does not adversely affect the Limited Partners in any material respect, or to cure any ambiguity, correct or supplement any provision in this Agreement not inconsistent with law or with other provisions, or make other changes with respect to matters arising under this Agreement that will not be inconsistent with law or with the provisions of this Agreement;

(4) to set forth or amend the designations, preferences, conversion or other rights, voting powers, restrictions, limitations as to distributions, qualifications or terms or conditions of redemption of the Holders of any additional Partnership Interests issued pursuant to Article 4;

(5) to satisfy any requirements, conditions or guidelines contained in any order, directive, opinion, ruling or regulation of a Federal or state agency or contained in Federal or state law;

(6) (a) to reflect such changes as are reasonably necessary for the General Partner to maintain its status as a REIT or to satisfy the REIT Requirements, or (b) to reflect the Transfer of all or any part of a Partnership Interest among the General Partner and any Disregarded Entity with respect to the General Partner;

(7) to modify either or both of the manner in which items of Net Income or Net Loss are allocated pursuant to Article 6 or the manner in which Capital Accounts are adjusted, computed, or maintained (but in each case only to the extent otherwise provided in this Agreement and as may be permitted under applicable law);

(8) to reflect the issuance of additional Partnership Interests in accordance with Section 4.2; or

(9) to reflect any other modification to this Agreement as is reasonably necessary for the business or operations of the Partnership or the General Partner and which does not violate Section 7.3.D.

D. Notwithstanding Sections 7.3.B, 7.3.C and 14.2 hereof, this Agreement shall not be amended, and no action may be taken by the General Partner, without the Consent of each Partner adversely affected thereby, if such amendment or action would (i) convert a Limited Partner Interest in the Partnership into a General Partner Interest (except as a result of the General Partner acquiring such Partnership Interest), (ii) modify the limited liability of a Limited Partner, (iii) alter the rights of any Partner to receive the distributions to which such Partner is entitled pursuant to Article 5 or Section 13.2.A(4) hereof, or alter the allocations specified in Article 6 hereof (except, in any case, as permitted pursuant to Sections 4.2, 5.5, 7.3.C and Article 6 hereof), (iv) alter or modify the Redemption rights, Cash Amount or REIT Shares Amount as set forth in Section 15.1 hereof, or amend or modify any related definitions, (v) subject to Section 7.9.D, remove, alter or amend the powers and restrictions related to REIT Requirements or permitting the General Partner to avoid paying tax under Code Sections 857 or 4981 contained in Sections 7.1 and 7.3, or (vi) amend this Section 7.3.D. Any such amendment or action consented to by any Partner shall be effective as to that Partner, notwithstanding the absence of such consent by any other Partner.

Section 7.4 *Reimbursement of the General Partner*.

A. The General Partner shall not be compensated for its services as General Partner of the Partnership except as provided in this Agreement (including the provisions of Articles 5 and 6 hereof regarding distributions, payments and allocations to which the General Partner may be entitled in its capacity as the General Partner).

B. Subject to Sections 7.4.D and 15.12 hereof, the Partnership shall be responsible for and shall pay all expenses relating to the Partnership's and the General Partner's organization and the ownership of each of their assets and operations. The General Partner is hereby authorized to pay compensation for accounting, administrative, legal, technical, management and other services rendered to the Partnership. The Partnership shall be liable for, and shall reimburse the General Partner, on a monthly basis, or such other basis as the General Partner may determine in its sole and absolute discretion, for all sums expended in connection with the Partnership's business, including, without limitation, (i) expenses relating to the ownership of interests in and management and operation of the Partnership, (ii) compensation of officers and employees, including, without limitation, payments under future compensation plans, of the General Partner, or the Partnership that may provide for stock units, or phantom stock, pursuant to which employees of the General Partner, or the Partnership will receive payments based upon dividends on or the value of REIT Shares, (iii) director fees and expenses of the General Partner or its Affiliates, (iv) any expenses (other than the purchase price) incurred by the General Partner in connection with the redemption or other repurchase of REIT Shares or Capital Shares, and (v) all costs and expenses of the General Partner being a public company, including, without limitation, costs of filings with the SEC, reports and other distributions to its stockholders; *provided*, *however*, that the amount of any reimbursement shall be reduced by any interest earned by the General Partner with respect to bank accounts or other instruments or accounts held by it on behalf of the Partnership as permitted pursuant to Section 7.5 hereof. The Partners acknowledge that all such expenses of the General Partner are deemed to be for the benefit of the Partnership. Such reimbursements shall be in addition to any reimbursement of the General Partner as a result of indemnification pursuant to Section 7.7 hereof.

C. If the General Partner shall elect to purchase from its stockholders REIT Shares for the purpose of delivering such REIT Shares to satisfy an obligation under any dividend reinvestment program adopted by the General Partner, any employee stock purchase plan adopted by the General Partner or any similar obligation or arrangement undertaken by the General Partner in the future, in lieu of the treatment specified in Section 4.7.B., the purchase price paid by the General Partner for such REIT Shares shall be considered expenses of the Partnership and shall be advanced to the General Partner or reimbursed to the General Partner, subject to the condition that: (1) if such REIT Shares subsequently are sold by the General Partner, the General Partner shall pay or cause to be paid to the Partnership any proceeds received by the General Partner for such REIT Shares (which sales proceeds shall include the amount of dividends reinvested under any dividend reinvestment or similar program; *provided*, that a transfer of REIT Shares for Partnership Common Units pursuant to Section 15.1 would not be considered a sale for such purposes); and (2) if such REIT Shares are not retransferred by the General Partner within 30 days after the purchase thereof, or the General Partner otherwise determines not to retransfer such REIT Shares, the Partnership shall redeem a number of Partnership Common Units determined in accordance with Section 4.7.B, as adjusted, to the extent the General Partner determines is necessary or advisable in its sole and absolute discretion, (x) pursuant to Section 7.5 (in the event the General Partner acquires material assets, other than on behalf of the Partnership) and (y) for stock dividends and distributions, stock splits and subdivisions, reverse stock splits and combinations, distributions of rights, warrants or options, and distributions of evidences of indebtedness or assets relating to assets not received by the General Partner pursuant to a pro rata distribution by the Partnership (in which case such advancement or reimbursement of expenses shall be treated as having been made as a distribution in redemption of such number of Partnership Units held by the General Partner).

D. To the extent practicable, Partnership expenses shall be billed directly to and paid by the Partnership and, subject to Section 15.12 hereof, if and to the extent any reimbursements to the General Partner or any of its Affiliates by the Partnership pursuant to this Section 7.4 constitute gross income to such Person (as opposed to the repayment of advances made by such Person on behalf of the Partnership), such amounts shall be treated as "guaranteed payments" within the meaning of Code Section 707(c) and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

Section 7.5 *Outside Activities of the General Partner*. The General Partner shall not directly or indirectly enter into or conduct any business, other than in connection with, (a) the ownership, acquisition and disposition of Partnership Interests, (b) the management of the business and affairs of the Partnership, (c) the operation of the General Partner as a reporting company with a class (or classes) of securities registered under the Exchange Act, (d) its operations as a REIT, (e) the offering, sale, syndication, private placement or public offering of stock, bonds,

securities or other interests, (f) financing or refinancing of any type related to the Partnership or its assets or activities, and (g) such activities as are incidental thereto; *provided*, *however*, that, except as otherwise provided herein, any funds raised by the General Partner pursuant to the preceding clauses (e) and (f) shall be made available to the Partnership, whether as Capital Contributions, loans or otherwise, as appropriate, and, *provided*, *further* that the General Partner may, in its sole and absolute discretion, from time to time hold or acquire assets in its own name or otherwise other than through the Partnership so long as the General Partner takes commercially reasonable measures to ensure that the economic benefits and burdens of such Property are otherwise vested in the Partnership, through assignment, mortgage loan or otherwise or, if it is not commercially reasonable to vest such economic interests in the Partnership, the Partners shall negotiate in good faith to amend this Agreement, including, without limitation, the definition of "Adjustment Factor," to reflect such activities and the direct ownership of assets by the General Partner. Nothing contained herein shall be deemed to prohibit the General Partner from executing guarantees of Partnership debt. The General Partner and all Disregarded Entities with respect to the General Partner, taken as a group, shall not own any assets or take title to assets (other than temporarily in connection with an acquisition prior to contributing such assets to the Partnership) other than (i) interests in Disregarded Entities with respect to the General Partner, (ii) Partnership Interests as the General Partner, (iii) an interest (not to exceed 1% of capital and profits) in any Subsidiary of the Partnership that the General Partner holds to maintain such Subsidiary's status as a partnership for Federal income tax purposes or otherwise, and (iv) such cash and cash equivalents, bank accounts or similar instruments or accounts as such group deems reasonably necessary, taking into account Section 7.1.D hereof and the requirements necessary for the General Partner to qualify as a REIT and for the General Partner to carry out its responsibilities contemplated under this Agreement and the Charter. Any Limited Partner Interests acquired by the General Partner, whether pursuant to the exercise by a Limited Partner of its right to Redemption, or otherwise, shall be automatically converted into a General Partner Interest comprised of an identical number of Partnership Units with the same terms as the class or series so acquired. Any Affiliates of the General Partner may acquire Limited Partner Interests and shall, except as expressly provided in this Agreement, be entitled to exercise all rights of a Limited Partner relating to such Limited Partner Interests.

Section 7.6 *Transactions with Affiliates*.

A. The Partnership may lend or contribute funds to, and borrow funds from, Persons in which the Partnership has an equity investment, and such Persons may borrow funds from, and lend or contribute funds to, the Partnership, on terms and conditions established in the sole and absolute discretion of the General Partner. The foregoing authority shall not create any right or benefit in favor of any Person.

B. Except as provided in Section 7.5 hereof, the Partnership may transfer assets to joint ventures, limited liability companies, partnerships, corporations, business trusts or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with this Agreement and applicable law.

C. The General Partner and its Affiliates may sell, transfer or convey any property to, or purchase any property from, the Partnership, directly or indirectly, on terms and conditions established by the General Partner in its sole and absolute discretion.

D. The General Partner, in its sole and absolute discretion and without the approval of the Partners or any of them or any other Persons, may propose and adopt (on behalf of the Partnership) employee benefit plans funded by the Partnership for the benefit of employees of the General Partner, the Partnership, Subsidiaries of the Partnership or any Affiliate of any of them in respect of services performed, directly or indirectly, for the benefit of the General Partner, the Partnership or any of the Partnership's Subsidiaries.

Section 7.7 *Indemnification*.

A. To the fullest extent permitted by applicable law, the Partnership shall indemnify each Indemnitee from and against any and all losses, claims, damages, liabilities, joint or several, expenses (including, without limitation, attorney's fees and other legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of the Partnership ("*Actions*") as set forth in this Agreement in which such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise; *provided*, *however*, that the Partnership shall not indemnify an Indemnitee (i) if the act or omission of the Indemnitee was material to the matter giving rise to the Action and either was committed in bad faith or was the result of active and deliberate dishonesty; (ii) in the case of

any criminal proceeding, if the Indemnitee had reasonable cause to believe that the act or omission was unlawful; or (iii) for any transaction for which such Indemnitee actually received an improper personal benefit in violation or breach of any provision of this Agreement; and *provided*, *further*, that no payments pursuant to this Agreement shall be made by the Partnership to indemnify or advance funds to any Indemnitee (x) with respect to any Action initiated or brought voluntarily by such Indemnitee (and not by way of defense) unless (I) approved or authorized by the General Partner or (II) incurred to establish or enforce such Indemnitee's right to indemnification under this Agreement, and (y) in connection with one or more Actions or claims brought by the Partnership or involving such Indemnitee if such Indemnitee is found liable to the Partnership on any portion of any claim in any such Action.

Without limitation, the foregoing indemnity shall extend to any liability of any Indemnitee, pursuant to a loan guaranty or otherwise, for any indebtedness of the Partnership or any Subsidiary of the Partnership (including, without limitation, any indebtedness which the Partnership or any Subsidiary of the Partnership has assumed or taken subject to), and the General Partner is hereby authorized and empowered, on behalf of the Partnership, to enter into one or more indemnity agreements consistent with the provisions of this Section 7.7 in favor of any Indemnitee having or potentially having liability for any such indebtedness. It is the intention of this Section 7.7.A that the Partnership indemnify each Indemnitee to the fullest extent permitted by law and this Agreement. The termination of any proceeding by judgment, order or settlement does not create a presumption that the Indemnitee did not meet the requisite standard of conduct set forth in this Section 7.7.A. The termination of any proceeding by conviction of an Indemnitee or upon a plea of *nolo contendere* or its equivalent by an Indemnitee, or an entry of an order of probation against an Indemnitee prior to judgment, does not create a presumption that such Indemnitee acted in a manner contrary to that specified in this Section 7.7.A with respect to the subject matter of such proceeding. Any indemnification pursuant to this Section 7.7 shall be made only out of the assets of the Partnership, and neither the General Partner nor any other Holder shall have any obligation to contribute to the capital of the Partnership or otherwise provide funds to enable the Partnership to fund its obligations under this Section 7.7.

B. To the fullest extent permitted by law, expenses incurred by an Indemnitee who is a party to a proceeding or otherwise subject to or the focus of or is involved in any Action shall be paid or reimbursed by the Partnership as incurred by the Indemnitee in advance of the final disposition of the Action upon receipt by the Partnership of (i) a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Partnership as authorized in Section 7.7.A has been met, and (ii) a written undertaking by or on behalf of the Indemnitee to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

C. The indemnification provided by this Section 7.7 shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of law or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee unless otherwise provided in a written agreement with such Indemnitee or in the writing pursuant to which such Indemnitee is indemnified.

D. The Partnership may, but shall not be obligated to, purchase and maintain insurance, on behalf of any of the Indemnitees and such other Persons as the General Partner shall determine, against any liability that may be asserted against or expenses that may be incurred by such Person in connection with the Partnership's activities, regardless of whether the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

E. Any liabilities which an Indemnitee incurs as a result of acting on behalf of the Partnership or the General Partner (whether as a fiduciary or otherwise) in connection with the operation, administration or maintenance of an employee benefit plan or any related trust or funding mechanism (whether such liabilities are in the form of excise taxes assessed by the IRS, penalties assessed by the U.S. Department of Labor, restitutions to such a plan or trust or other funding mechanism or to a participant or beneficiary of such plan, trust or other funding mechanism, or otherwise) shall be treated as liabilities or judgments or fines under this Section 7.7, unless such liabilities arise as a result of (i) an act or omission of such Indemnitee that was material to the matter giving rise to the Action and either was committed in bad faith or was the result of active and deliberate dishonesty; (ii) in the case of any criminal proceeding, an act or omission that such Indemnitee had reasonable cause to believe was unlawful, or (iii) any transaction in which such Indemnitee actually received an improper personal benefit in violation or breach of any provision of this Agreement.

F. In no event may an Indemnitee subject any of the Holders to personal liability by reason of the indemnification provisions set forth in this Agreement.

G. An Indemnitee shall not be denied indemnification in whole or in part under this Section 7.7 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

H. The provisions of this Section 7.7 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this Section 7.7 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the Partnership's liability to any Indemnitee under this Section 7.7 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

I. It is the intent of the parties that any amounts paid by the Partnership to the General Partner pursuant to this Section 7.7 shall be treated as "guaranteed payments" within the meaning of Code Section 707(c) and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

Section 7.8 *Liability of the General Partner*.

A. The Limited Partners agree that: (i) the General Partner is acting for the benefit of the Partnership, the Limited Partners and the General Partner's stockholders collectively; (ii) in the event of a conflict between the interests of the Partnership or any Partner, on the one hand, and the separate interests of the General Partner or its stockholders, on the other hand, the General Partner is under no obligation not to give priority to the separate interests of the General Partner or the stockholders of the General Partner, and any action or failure to act on the part of the General Partner or its directors that gives priority to the separate interests of the General Partner or its stockholders that does not result in a violation of the contract rights of the Limited Partners under this Agreement does not violate the duty of loyalty owed by the General Partner to the Partnership and/or the Partners; and (iii) the General Partner shall not be liable to the Partnership or to any Partner for monetary damages for losses sustained, liabilities incurred or benefits not derived by the Partnership or any Limited Partner in connection with such decisions, except for liability for the General Partner's intentional harm or gross negligence.

B. Subject to its obligations and duties as General Partner set forth in this Agreement and applicable law, the General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its employees or agents. The General Partner shall not be responsible to the Partnership or any Partner for any misconduct or negligence on the part of any such employee or agent appointed by it in good faith.

C. Any obligation or liability whatsoever of the General Partner which may arise at any time under this Agreement or any other instrument, transaction, or undertaking contemplated hereby shall be satisfied, if at all, out of the assets of the General Partner or the Partnership only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, any of the General Partner's directors, stockholders, officers, employees, or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise. Notwithstanding anything to the contrary set forth in this Agreement, none of the directors or officers of the General Partner shall be liable or accountable in damages or otherwise to the Partnership, any Partners, or any Assignees for losses sustained, liabilities incurred or benefits not derived as a result of errors in judgment or mistakes of fact or law or of any act or omission.

D. Any amendment, modification or repeal of this Section 7.8 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the General Partner's and its officers' and directors' liability to the Partnership and the Limited Partners under this Section 7.8 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

E. Notwithstanding anything herein to the contrary, except for liability for intentional harm or gross negligence on the part of such Partner or pursuant to any express indemnities given to the Partnership by any Partner pursuant to any other written instrument, no Partner shall have any personal liability whatsoever, to the Partnership or to the other Partners, or for the debts or liabilities of the Partnership or the Partnership's obligations hereunder,

and the full recourse of the other Partner(s) shall be limited to the interest of that Partner in the Partnership. Without limitation of the foregoing, and except for liability for intentional harm or gross negligence on the part of any Partner, or pursuant to any such express indemnity, no property or assets of such Partner, other than its interest in the Partnership, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) in favor of any other Partner(s) and arising out of, or in connection with, this Agreement. This Agreement is executed by the officers of the General Partner solely as officers of the same and not in their own individual capacities.

F. To the extent that, at law or in equity, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or the Limited Partners, the General Partner shall not be liable to the Partnership or to any other Partner for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict or modify the duties and liabilities of the General Partner under the Act or otherwise existing at law or in equity, are agreed by the Partners to replace such other duties and liabilities of such General Partner.

G. Whenever in this Agreement the General Partner is permitted or required to make a decision (i) in its "sole and absolute discretion," "sole discretion" or "discretion" or under a grant of similar authority or latitude, the General Partner shall be entitled to consider only such interests and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest or factors affecting the Partnership or the Partners or any of them, or (ii) in its "good faith" or under another expressed standard, the General Partner shall act under such express standard and shall not be subject to any other or different standards imposed by this Agreement or any other agreement contemplated herein or by relevant provisions of law or in equity or otherwise. If any question should arise with respect to the operation of the Partnership, which is not otherwise specifically provided for in this Agreement or the Act, or with respect to the interpretation of this Agreement, the General Partner is hereby authorized to make a final determination with respect to any such question and to interpret this Agreement in such a manner as it shall deem, in its sole discretion, to be fair and equitable, and its determination and interpretations so made shall be final and binding on all parties. The General Partner's "sole and absolute discretion," "sole discretion" and "discretion" under this Agreement shall be exercised consistently with the General Partner's fiduciary duties and obligation of good faith and fair dealing under the Act.

Section 7.9 *Other Matters Concerning the General Partner*.

A. The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

B. The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, architects, engineers, environmental consultants and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters that the General Partner reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

C. The General Partner shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized officers or agents or a duly appointed attorney or attorneys-in-fact. Each such officer, agent or attorney shall, to the extent authorized by the General Partner, have full power and authority to do and perform all and every act and duty that is permitted or required to be done by the General Partner hereunder.

D. Notwithstanding any other provision of this Agreement or the Act, any action of the General Partner on behalf of the Partnership or any decision of the General Partner to refrain from acting on behalf of the Partnership, undertaken in the good faith belief that such action or omission is necessary or advisable in order (i) to protect the ability of the General Partner to continue to qualify as a REIT, (ii) for the General Partner otherwise to satisfy the REIT Requirements, (iii) for the General Partner to avoid incurring any taxes under Code Section 857 or Code Section 4981, or (iv) for any General Partner Affiliate to continue to qualify as a "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)), is expressly authorized under this Agreement and is deemed approved by all of the Limited Partners.

Section 7.10 *Title to Partnership Assets*. Title to Partnership assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner,

individually or collectively with other Partners or Persons, shall have any ownership interest in such Partnership assets or any portion thereof. Title to any or all of the Partnership assets may be held in the name of the Partnership, the General Partner or one or more nominees, as the General Partner may determine, including Affiliates of the General Partner. The General Partner hereby declares and warrants that any Partnership assets for which legal title is held in the name of the General Partner or any nominee or Affiliate of the General Partner shall be held by the General Partner or such nominee or Affiliate for the use and benefit of the Partnership in accordance with the provisions of this Agreement. All Partnership assets shall be recorded as the property of the Partnership in its books and records, irrespective of the name in which legal title to such Partnership assets is held.

Section 7.11 *Reliance by Third Parties*. Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner has full power and authority, without the consent or approval of any other Partner, or Person, to encumber, sell or otherwise use in any manner any and all assets of the Partnership and to enter into any contracts on behalf of the Partnership, and take any and all actions on behalf of the Partnership, and such Person shall be entitled to deal with the General Partner as if it were the Partnership's sole party in interest, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the General Partner in connection with any such dealing. In no event shall any Person dealing with the General Partner or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expediency of any act or action of the General Partner or its representatives. Each and every certificate, document or other instrument executed on behalf of the Partnership by the General Partner or its representatives shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (i) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (ii) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Partnership and (iii) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Partnership.

ARTICLE 8
RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

Section 8.1 *Limitation of Liability*. No Limited Partner shall have any liability under this Agreement except for intentional harm or gross negligence on the part of such Limited Partner or as expressly provided in this Agreement (including, without limitation, Section 10.4 hereof) or under the Act.

Section 8.2 *Management of Business*. Subject to the rights and powers of the General Partner hereunder, no Limited Partner or Assignee (other than the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such) shall take part in the operations, management or control (within the meaning of the Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership. The transaction of any such business by the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent, representative, or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such, shall not affect, impair or eliminate the limitations on the liability of the Limited Partners or Assignees under this Agreement.

Section 8.3 *Outside Activities of Limited Partners*. Subject to any agreements entered into pursuant to Section 7.6 hereof and any other agreements entered into by a Limited Partner or any of its Affiliates with the General Partner, the Partnership or a Subsidiary (including, without limitation, any employment agreement), any Limited Partner and any Assignee, officer, director, employee, agent, trustee, Affiliate, member or stockholder of any Limited Partner shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including business interests and activities that are in direct or indirect competition with the Partnership or that are enhanced by the activities of the Partnership. Neither the Partnership nor any Partner shall have any rights by virtue of this Agreement in any business ventures of any Limited Partner or Assignee. Subject to such agreements, none of the Limited Partners nor any other Person shall have any rights by virtue of this Agreement or the partnership relationship established hereby in any business ventures of any other Person (other than the General Partner), and such Person shall have no obligation pursuant to this Agreement, subject to Section 7.6 hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or a Subsidiary, to offer any interest in any such business ventures to the

Partnership, any Limited Partner, or any such other Person, even if such opportunity is of a character that, if presented to the Partnership, any Limited Partner or such other Person, could be taken by such Person.

Section 8.4 *Return of Capital.* Except pursuant to the rights of Redemption set forth in Section 15.1 hereof or in any Partnership Unit Designation, no Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent of distributions made pursuant to this Agreement or upon termination of the Partnership as provided herein. Except to the extent provided in Article 5 and Article 6 hereof or otherwise expressly provided in this Agreement or in any Partnership Unit Designation, no Limited Partner or Assignee shall have priority over any other Limited Partner or Assignee either as to the return of Capital Contributions or as to profits, losses or distributions.

Section 8.5 *Rights of Limited Partners Relating to the Partnership*.

A. In addition to other rights provided by this Agreement or by the Act, and except as limited by Section 8.5.C hereof, the General Partner shall deliver to each Limited Partner a copy of any information mailed or electronically delivered to all of the common stockholders of the General Partner as soon as practicable after such mailing.

B. The Partnership shall notify any Limited Partner that is a Qualifying Party, on request, of the then current Adjustment Factor and any change made to the Adjustment Factor shall be set forth in the quarterly report required by Section 9.3.B hereof immediately following the date such change becomes effective.

C. Notwithstanding any other provision of this Section 8.5, the General Partner may keep confidential from the Limited Partners (or any of them), for such period of time as the General Partner determines in its sole and absolute discretion to be reasonable, any information that (i) the General Partner believes to be in the nature of trade secrets or other information the disclosure of which the General Partner in good faith believes is not in the best interests of the Partnership or the General Partner or (ii) the Partnership or the General Partner is required by law or by agreement to keep confidential.

Section 8.6 *Partnership Right to Call Limited Partner Interests*. Notwithstanding any other provision of this Agreement, on and after the date on which the aggregate Percentage Interests of the Limited Partners are less than one percent (1%), the Partnership shall have the right, but not the obligation, from time to time and at any time to redeem any and all outstanding Limited Partner Interests by treating any Limited Partner as a Tendering Party who has delivered a Notice of Redemption pursuant to Section 15.1 hereof for the amount of Partnership Common Units to be specified by the General Partner, in its sole and absolute discretion, by notice to such Limited Partner that the Partnership has elected to exercise its rights under this Section 8.6. Such notice given by the General Partner to a Limited Partner pursuant to this Section 8.6 shall be treated as if it were a Notice of Redemption delivered to the General Partner by such Limited Partner. For purposes of this Section 8.6, (a) any Limited Partner (whether or not otherwise a Qualifying Party) may, in the General Partner's sole and absolute discretion, be treated as a Qualifying Party that is a Tendering Party and (b) the provisions of Sections 15.1.F(2) and 15.1.F(3) hereof shall not apply, but the remainder of Section 15.1 hereof shall apply, mutatis mutandis.

Section 8.7 *Rights as Objecting Partner*. No Limited Partner and no Holder of a Partnership Interest shall be entitled to exercise any of the rights of an objecting stockholder provided for under Article 8.1, Article 12 and Article 15 of the Virginia Stock Corporation Act or any successor statute in connection with a merger of the Partnership.

ARTICLE 9
BOOKS, RECORDS, ACCOUNTING AND REPORTS

Section 9.1 *Records and Accounting*.

A. The General Partner shall keep or cause to be kept at the principal place of business of the Partnership those records and documents, if any, required to be maintained by the Act and any other books and records deemed by the General Partner to be appropriate with respect to the Partnership's business, including, without limitation, all books and records necessary to provide to the Limited Partners any information, lists and copies of documents required to be provided pursuant to Section 8.5.A, Section 9.3 or Article 13 hereof. Any records maintained by or on behalf of the Partnership in the regular course of its business may be kept on any information storage device, provided that the records so maintained are convertible into clearly legible written form within a reasonable period of time.

B. The books of the Partnership shall be maintained, for financial and tax reporting purposes, on an accrual basis in accordance with generally accepted accounting principles, or on such other basis as the General Partner determines to be necessary or appropriate. To the extent permitted by sound accounting practices and principles, the Partnership and the General Partner may operate with integrated or consolidated accounting records, operations and principles.

Section 9.2 *Partnership Year*. For purposes of this Agreement, "Partnership Year" means the fiscal year of the Partnership, which shall be the same as the tax year of the Partnership. The tax year shall be the calendar year unless otherwise required by the Code.

Section 9.3 *Reports*.

A. As soon as practicable, but in no event later than one hundred five (105) days after the close of each Partnership Year, the General Partner shall cause to be mailed to each Limited Partner of record as of the close of the Partnership Year, financial statements of the Partnership, or of the General Partner if such statements are prepared solely on a consolidated basis with the General Partner, for such Partnership Year, presented in accordance with generally accepted accounting principles, such statements to be audited by a nationally recognized firm of independent public accountants selected by the General Partner.

B. As soon as practicable, but in no event later than sixty (60) days after the close of each calendar quarter (except the last calendar quarter of each year), the General Partner shall cause to be mailed to each Limited Partner of record as of the last day of the calendar quarter, a report containing unaudited financial statements of the Partnership for such calendar quarter, or of the General Partner if such statements are prepared solely on a consolidated basis with the General Partner, and such other information as may be required by applicable law or regulation or as the General Partner determines to be appropriate.

C. The General Partner shall have satisfied its obligations under Section 9.3.A and Section 9.3.B by posting or making available the reports required by this Section 9.3 on the website maintained from time to time by the Partnership or the General Partner, provided that such reports are able to be printed or downloaded from such website.

D. At the request of any Limited Partner, the General Partner shall provide access to the books, records and work papers upon which the reports required by this Section 9.3 are based, to the extent required by the Act.

ARTICLE 10
TAX MATTERS

Section 10.1 *Preparation of Tax Returns*. The General Partner shall arrange for the preparation and timely filing of all returns with respect to Partnership income, gains, deductions, losses and other items required of the Partnership for Federal and state income tax purposes and shall use all reasonable efforts to furnish, within ninety (90) days of the close of each taxable year, the tax information reasonably required by Limited Partners for Federal and state income tax and any other tax reporting purposes. The Limited Partners shall promptly provide the General Partner with such information relating to the Contributed Properties as is readily available to the Limited Partners, including tax basis and other relevant information, as may be reasonably requested by the General Partner from time to time.

Section 10.2 *Tax Elections*. Except as otherwise provided herein, the General Partner shall, in its sole and absolute discretion, determine whether to make any available election pursuant to the Code, including, but not limited to, the election under Code Section 754. The General Partner shall have the right to seek to revoke any such election (including, without limitation, any election under Code Section 754) upon the General Partner's determination in its sole and absolute discretion that such revocation is in the best interests of the Partners.

Section 10.3 *Tax Matters Partner*.

A. The General Partner shall be the "tax matters partner" of the Partnership for federal income tax purposes. The tax matters partner shall receive no compensation for its services. All third-party costs and expenses incurred by the tax matters partner in performing its duties as such (including legal and accounting fees and expenses) shall be borne by the Partnership in addition to any reimbursement pursuant to Section 7.4 hereof. Nothing herein shall be

construed to restrict the Partnership from engaging an accounting firm to assist the tax matters partner in discharging its duties hereunder.

B. The tax matters partner is authorized, but not required:

(1) to enter into any settlement with the IRS with respect to any administrative or judicial proceedings for the adjustment of Partnership items required to be taken into account by a Partner for income tax purposes (such administrative proceedings being referred to as a "tax audit" and such judicial proceedings being referred to as "judicial review"), and in the settlement agreement the tax matters partner may expressly state that such agreement shall bind all Partners, except that such settlement agreement shall not bind any Partner (i) who (within the time prescribed pursuant to the Code and Regulations) files a statement with the IRS providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such Partner (as the case may be) or (ii) who is a "notice partner" (as defined in Code Section 6231) or a member of a "notice group" (as defined in Code Section 6223(b)(2));

(2) in the event that a notice of a final administrative adjustment at the Partnership level of any item required to be taken into account by a Partner for tax purposes (a "*Final Adjustment*") is mailed to the tax matters partner, to seek judicial review of such Final Adjustment, including the filing of a petition for readjustment with the United States Tax Court or the United States Claims Court, or the filing of a complaint for refund with the District Court of the United States for the district in which the Partnership's principal place of business is located;

(3) to intervene in any action brought by any other Partner for judicial review of a final adjustment;

(4) to file a request for an administrative adjustment with the IRS at any time and, if any part of such request is not allowed by the IRS, to file an appropriate pleading (petition or complaint) for judicial review with respect to such request;

(5) to enter into an agreement with the IRS to extend the period for assessing any tax that is attributable to any item required to be taken into account by a Partner for tax purposes, or an item affected by such item; and

(6) to take any other action on behalf of the Partners or any of them in connection with any tax audit or judicial review proceeding to the extent permitted by applicable law or regulations.

The taking of any action and the incurring of any expense by the tax matters partner in connection with any such proceeding, except to the extent required by law, is a matter in the sole and absolute discretion of the tax matters partner and the provisions relating to indemnification of the General Partner set forth in Section 7.7 hereof shall be fully applicable to the tax matters partner in its capacity as such.

Section 10.4 *Withholding*. Each Limited Partner hereby authorizes the Partnership to withhold from or pay on behalf of or with respect to such Limited Partner any amount of Federal, state, local or foreign taxes that the General Partner determines the Partnership is required to withhold or pay with respect to any amount distributable or allocable to such Limited Partner pursuant to this Agreement, including, without limitation, any taxes required to be withheld or paid by the Partnership pursuant to Code Section 1441, Code Section 1442, Code Section 1445 or Code Section 1446. Any amount withheld with respect to a Limited Partner pursuant to this Section 10.4 shall be treated as paid or distributed, as applicable, to such Limited Partner for all purposes under this Agreement. Any amount paid on behalf of or with respect to a Limited Partner, in excess of any such withheld amount, shall constitute a loan by the Partnership to such Limited Partner, which loan shall be repaid by such Limited Partner within thirty (30) days after the affected Limited Partner receives written notice from the General Partner that such payment must be made, provided that the Limited Partner shall not be required to repay such deemed loan if either (i) the Partnership withholds such payment from a distribution that would otherwise be made to the Limited Partner or (ii) the General Partner determines, in its sole and absolute discretion, that such payment may be satisfied out of the Available Cash of the Partnership that would, but for such payment, be distributed to the Limited Partner. Any amounts payable by a Limited Partner hereunder shall bear interest at the base rate on corporate loans at large United States money center commercial banks, as published from time to time in the Wall Street Journal (but not higher than the maximum lawful rate) from the date such amount is due (i.e., thirty (30) days after the Limited Partner receives written notice of such amount) until such amount is paid in full.

Section 10.5 *Organizational Expenses*. The General Partner may cause the Partnership to elect to deduct expenses, if any, incurred by it in organizing the Partnership ratably over a 180-month period as provided in Section 709 of the Code.

ARTICLE 11
PARTNER TRANSFERS AND WITHDRAWALS

Section 11.1 *Transfer*.

A. No part of the interest of a Partner shall be subject to the claims of any creditor, to any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement.

B. No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article 11. Any Transfer or purported Transfer of a Partnership Interest not made in accordance with this Article 11 shall be null and void *ab initio*.

C. No Transfer of any Partnership Interest may be made to a lender to the Partnership or any Person who is related (within the meaning of Section 1.752-4(b) of the Regulations) to any lender to the Partnership whose loan constitutes a Nonrecourse Liability, without the Consent of the General Partner; *provided*, *however*, that, as a condition to such Consent, the lender may be required to enter into an arrangement with the Partnership and the General Partner to redeem or exchange for the REIT Shares Amount any Partnership Units in which a security interest is held by such lender simultaneously with the time at which such lender would be deemed to be a partner in the Partnership for purposes of allocating liabilities to such lender under Section 752 of the Code (provided that, for purpose of calculating the REIT Shares Amount in this Section 11.1.C, "*Tendered Units*" shall mean all such Partnership Units in which a security interest is held by such lender).

Section 11.2 *Transfer of General Partner's Partnership Interest.*

A. Except as provided in Section 11.2.B or Section 11.2.C, and subject to the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation, the General Partner may not Transfer all or any portion of its Partnership Interest (whether by sale, disposition, statutory merger or consolidation, liquidation or otherwise) without the Consent of the Limited Partners. It is a condition to any Transfer of a Partnership Interest of a General Partner otherwise permitted hereunder (including any Transfer permitted pursuant to Section 11.2.B or Section 11.2.C) that: (i) coincident with such Transfer, the transferee is admitted as a General Partner pursuant to Section 12.1 hereof; (ii) the transferee assumes, by operation of law or express agreement, all of the obligations of the transferor General Partner under this Agreement with respect to such Transferred Partnership Interest; and (iii) the transferee has executed such instruments as may be necessary to effectuate such admission and to confirm the agreement of such transferee to be bound by all the terms and provisions of this Agreement with respect to the Partnership Interest so acquired and the admission of such transferee as a General Partner.

B. *Certain Transactions of the General Partner*. Except as provided in Section 11.2.D and subject to the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation, the General Partner may, without the Consent of the Limited Partners, Transfer all of its Partnership Interest in connection with (a) a merger, consolidation or other combination of its assets with another entity, (b) a sale of all or substantially all of its assets not in the ordinary course of the Partnership's business or (c) a reclassification, recapitalization or change of any outstanding shares of the General Partner's stock or other outstanding equity interests (each, a "*Termination Transaction*") if:

(i) in connection with such Termination Transaction, all of the Limited Partners will receive, or will have the right to elect to receive, for each Partnership Common Unit an amount of cash, securities or other property equal to the product of the Adjustment Factor and the greatest amount of cash, securities or other property paid to a holder of one REIT Share in consideration of one REIT Share pursuant to the terms of such Termination Transaction; *provided*, that if, in connection with such Termination Transaction, a purchase, tender or exchange offer shall have been made to and accepted by the holders of the outstanding REIT Shares, each holder of Partnership Common Units shall receive, or shall have the right to elect to receive, the greatest amount of cash, securities or other property which such holder of Partnership Common Units would have received had it exercised its right to Redemption pursuant to Article 15 hereof and received REIT Shares in exchange for its Partnership Common Units immediately prior to the expiration of such purchase, tender or exchange offer and had thereupon accepted such purchase, tender or exchange offer and then such Termination Transaction shall have been consummated; or

(ii) all of the following conditions are met: (w) substantially all of the assets directly or indirectly owned by the surviving entity are owned directly or indirectly by the Partnership or another limited partnership or

limited liability company which is the survivor of a merger, consolidation or combination of assets with the Partnership (in each case, the "*Surviving Partnership*"); (x) the Limited Partners that held Partnership Common Units immediately prior to the consummation of such Termination Transaction own a percentage interest of the Surviving Partnership based on the relative fair market value of the net assets of the Partnership and the other net assets of the Surviving Partnership immediately prior to the consummation of such transaction; (y) the rights, preferences and privileges in the Surviving Partnership of such Limited Partners are at least as favorable as those in effect with respect to Partnership Common Units immediately prior to the consummation of such transaction and as those applicable to any other limited partners or non-managing members of the Surviving Partnership; and (z) the rights of such Limited Partners include at least one of the following: (a) the right to redeem their interests in the Surviving Partnership for the consideration available to such Persons pursuant to Section 11.2.B(i) or (b) the right to redeem their interests in the Surviving Partnership for cash on terms substantially equivalent to those in effect with respect to their Partnership Common Units immediately prior to the consummation of such transaction, or, if the ultimate controlling Person of the Surviving Partnership has publicly traded common equity securities, such common equity securities, with an exchange ratio based on the determination of relative fair market value of such securities and the REIT Shares.

C. Notwithstanding the other provisions of this Article 11 (other than Section 11.6.D hereof), the General Partner may Transfer all of its Partnership Interests at any time to any Person that is, at the time of such Transfer, an Affiliate of the General Partner that is controlled by the General Partner, including any "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)), without the Consent of any Limited Partners. The provisions of Section 11.2.B, 11.3, 11.4.A and 11.5 hereof shall not apply to any Transfer permitted by this Section 11.2.C.

D. Until the death of Jon Wheeler, the General Partner shall not, without prior Partnership Approval, consummate any transaction that would result in a direct or indirect transfer of all or any portion of the General Partner's Partnership Interest if such direct or indirect transfer would be effected through (a) a Termination Transaction or (b) the issuance of REIT Shares, in each case in connection with which the General Partner seeks to obtain or would be required to obtain approval of its common stockholders (each, a "*General Partner Interest Transfer*").

E. Except in connection with Transfers permitted in this Article 11 and as otherwise provided in Section 12.1 in connection with the Transfer of the General Partner's entire Partnership Interest, the General Partner may not voluntarily withdraw as a general partner of the Partnership without the Consent of the Limited Partners.

Section 11.3 *Limited Partners' Rights to Transfer*.

A. *General*. Prior to the end of the first Twelve-Month Period and except as provided in Section 11.1.C hereof, no Limited Partner shall Transfer all or any portion of its Partnership Interest to any transferee without the Consent of the General Partner; *provided*, *however*, that any Limited Partner may, at any time, without the consent or approval of the General Partner, (i) Transfer all or part of its Partnership Interest to any Family Member (including a Transfer by a Family Member that is an inter vivos or testamentary trust (whether revocable or irrevocable) to a Family Member that is a beneficiary of such trust), any Charity, any Controlled Entity or any Affiliate, or (ii) pledge (a "*Pledge*") all or any portion of its Partnership Interest to a lending institution as collateral or security for a bona fide loan or other extension of credit, and Transfer such pledged Partnership Interest to such lending institution in connection with the exercise of remedies under such loan or extension of credit (any Transfer or Pledge permitted by this proviso is hereinafter referred to as a "*Permitted Transfer*"). After such first Twelve-Month Period, each Limited Partner, and each transferee of Partnership Units or Assignee pursuant to a Permitted Transfer, shall have the right to Transfer all or any portion of its Partnership Interest to any Person, without the Consent of the General Partner but subject to the provisions of Section 11.4 hereof and to satisfaction of each of the following conditions:

(1) *General Partner Right of First Refusal*. The transferor Limited Partner (or the Partner's estate in the event of the Partner's death) shall give written notice of the proposed Transfer to the General Partner, which notice shall state (i) the identity and address of the proposed transferee and (ii) the amount and type of consideration proposed to be received for the Transferred Partnership Units. The General Partner shall have ten (10) Business Days upon which to give the transferor Limited Partner notice of its election to acquire the Partnership Units on the terms set forth in such notice. If it so elects, it shall purchase the Partnership Units on such terms within ten (10) Business Days after giving notice of such election; *provided*, *however*, that in the event that the proposed

terms involve a purchase for cash, the General Partner may at its election deliver in lieu of all or any portion of such cash a note from the General Partner payable to the transferor Limited Partner at a date as soon as reasonably practicable, but in no event later than one hundred eighty (180) days after such purchase, and bearing interest at an annual rate equal to the total dividends declared with respect to one (1) REIT Share for the four (4) preceding fiscal quarters of the General Partner, divided by the Value as of the closing of such purchase; and *provided*, *further*, that such closing may be deferred to the extent necessary to effect compliance with the Hart-Scott-Rodino Act, if applicable, and any other applicable requirements of law. If it does not so elect, the transferor Limited Partner may Transfer such Partnership Units to a third party, on terms no more favorable to the transferee than the proposed terms, subject to the other conditions of this Section 11.3.

(2) *Qualified Transferee*. Any Transfer of a Partnership Interest shall be made only to a single Qualified Transferee; *provided*, *however*, that, for such purposes, all Qualified Transferees that are Affiliates, or that comprise investment accounts or funds managed by a single Qualified Transferee and its Affiliates, shall be considered together to be a single Qualified Transferee; and *provided*, *further*, that each Transfer meeting the minimum Transfer restriction of Section 11.3.A(4) hereof may be to a separate Qualified Transferee.

(3) *Opinion of Counsel*. The transferor Limited Partner shall deliver or cause to be delivered to the General Partner an opinion of counsel reasonably satisfactory to it to the effect that the proposed Transfer may be effected without registration under the Securities Act and will not otherwise violate the registration provisions of the Securities Act and the regulations promulgated thereunder or violate any state securities laws or regulations applicable to the Partnership or the Partnership Interests Transferred; *provided*, *however*, that the General Partner may, in its sole discretion, waive this condition upon the request of the transferor Limited Partner. If, in the opinion of such counsel, such Transfer would require the filing of a registration statement under the Securities Act or would otherwise violate any Federal or state securities laws or regulations applicable to the Partnership or the Partnership Units, the General Partner may prohibit any Transfer otherwise permitted under this Section 11.3 by a Limited Partner of Partnership Interests.

(4) *Minimum Transfer Restriction*. Any Transferring Partner must Transfer not less than the lesser of (i) five hundred (500) Partnership Units or (ii) all of the remaining Partnership Units owned by such Transferring Partner, unless, in each case, otherwise agreed to by the General Partner; *provided*, *however*, that, for purposes of determining compliance with the foregoing restriction, all Partnership Units owned by Affiliates of a Limited Partner shall be considered to be owned by such Limited Partner.

(5) *Exception for Permitted Transfers*. The conditions of Sections 11.3.A(1) through 11.3.A(4) hereof shall not apply in the case of a Permitted Transfer.

It is a condition to any Transfer otherwise permitted hereunder (whether or not such Transfer is effected during or after the first Twelve-Month Period) that the transferee assumes by operation of law or express agreement all of the obligations of the transferor Limited Partner under this Agreement with respect to such Transferred Partnership Interest, and no such Transfer (other than pursuant to a statutory merger or consolidation wherein all obligations and liabilities of the transferor Partner are assumed by a successor corporation by operation of law) shall relieve the transferor Partner of its obligations under this Agreement without the Consent of the General Partner. Notwithstanding the foregoing, any transferee of any Transferred Partnership Interest shall be subject to any restrictions on ownership and transfer of stock of the General Partner contained in the Charter that may limit or restrict such transferee's ability to exercise its Redemption rights, including, without limitation, the Ownership Limit. Any transferee, whether or not admitted as a Substituted Limited Partner, shall take subject to the obligations of the transferor hereunder. Unless admitted as a Substituted Limited Partner, no transferee, whether by a voluntary Transfer, by operation of law or otherwise, shall have any rights hereunder, other than the rights of an Assignee as provided in Section 11.5 hereof.

B. *Incapacity*. If a Limited Partner is subject to Incapacity, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Limited Partner's estate shall have all the rights of a Limited Partner, but not more rights than those enjoyed by other Limited Partners, for the purpose of settling or managing the estate, and such power as the Incapacitated Limited Partner possessed to Transfer all or any part of its interest in the Partnership. The Incapacity of a Limited Partner, in and of itself, shall not dissolve or terminate the Partnership.

C. *Adverse Tax Consequences*. Notwithstanding anything to the contrary in this Agreement, the General Partner shall have the authority (but shall not be required) to take any steps it determines are necessary or appropriate in its sole and absolute discretion to prevent the Partnership from being taxable as a corporation for Federal income tax purposes. In addition, except with the Consent of the General Partner, no Transfer by a Limited

Partner of its Partnership Interests (including any Redemption, any other acquisition of Partnership Units by the General Partner or any acquisition of Partnership Units by the Partnership) may be made to or by any Person if such Transfer could (i) result in the Partnership being treated as an association taxable as a corporation; (ii) result in a termination of the Partnership under Code Section 708; (iii) be treated as effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704 and the Regulations promulgated thereunder, (iv) result in the Partnership being unable to qualify for one or more of the "safe harbors" set forth in Regulations Section 1.7704-1 (or such other guidance subsequently published by the IRS setting forth safe harbors under which interests will not be treated as "readily tradable on a secondary market (or the substantial equivalent thereof)" within the meaning of Section 7704 of the Code) (the "*Safe Harbors*") or (v) based on the advice of counsel to the Partnership or the General Partner, adversely affect the ability of the General Partner to continue to qualify as a REIT or subject the General Partner to any additional taxes under Code Section 857 or Code Section 4981.

Section 11.4 *Admission of Substituted Limited Partners*.

A. No Limited Partner shall have the right to substitute a transferee (including any transferees pursuant to Transfers permitted by Section 11.3 hereof) as a Limited Partner in its place. A transferee of a Limited Partner Interest may be admitted as a Substituted Limited Partner only with the Consent of the General Partner. The failure or refusal by the General Partner to permit a transferee of any such interests to become a Substituted Limited Partner shall not give rise to any cause of action against the Partnership or the General Partner. Subject to the foregoing, an Assignee shall not be admitted as a Substituted Limited Partner until and unless it furnishes to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all the terms, conditions and applicable obligations of this Agreement, (ii) a counterpart signature page to this Agreement executed by such Assignee and (iii) such other documents and instruments as may be required or advisable, in the sole and absolute discretion of the General Partner, to effect such Assignee's admission as a Substituted Limited Partner.

B. Concurrently with, and as evidence of, the admission of a Substituted Limited Partner, the General Partner shall amend Exhibit A and the books and records of the Partnership to reflect the name, address and number and class and/or series of Partnership Units of such Substituted Limited Partner and to eliminate or adjust, if necessary, the name, address and number of Partnership Units of the predecessor of such Substituted Limited Partner.

C. A transferee who has been admitted as a Substituted Limited Partner in accordance with this Article 11 shall have all the rights and powers and be subject to all the restrictions and liabilities of a Limited Partner under this Agreement.

Section 11.5 *Assignees*. If the General Partner does not Consent to the admission of any permitted transferee under Section 11.3 hereof as a Substituted Limited Partner, as described in Section 11.4 hereof, or in the event that any Partnership Interest is deemed to have been Transferred notwithstanding the restrictions set forth in this Article 11, such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be entitled to all the rights of an assignee of a limited partnership interest under the Act, including the right to receive distributions from the Partnership and the share of Net Income, Net Losses and other items of income, gain, loss, deduction and credit of the Partnership attributable to the Partnership Interest assigned to such transferee and the rights to Transfer the Partnership Interest provided in this Article 11, but shall not be deemed to be a holder of a Partnership Interest for any other purpose under this Agreement (other than as expressly provided in Section 15.1 hereof with respect to a Qualifying Party that becomes a Tendering Party), and shall not be entitled to effect a Consent or vote with respect to such Partnership Interest on any matter presented to the Partners for approval (such right to Consent or vote, to the extent provided in this Agreement or under the Act, fully remaining with the transferor Limited Partner). In the event that any such transferee desires to make a further Transfer of any such Partnership Interest, such transferee shall be subject to all the provisions of this Article 11 to the same extent and in the same manner as any Limited Partner desiring to make a Transfer of a Limited Partner Interest.

Section 11.6 *General Provisions*.

A. No Limited Partner may withdraw from the Partnership other than as a result of: (i) a permitted Transfer of all of such Limited Partner's Partnership Units in accordance with this Article 11 with respect to which the transferee becomes a Substituted Limited Partner; (ii) pursuant to a redemption (or acquisition by the General Partner) of all of its Partnership Units pursuant to a Redemption under Section 15.1 hereof and/or pursuant to any

Partnership Unit Designation or (iii) the acquisition by the General Partner of all of such Limited Partner's Partnership Interest, whether or not pursuant to Section 15.1.B hereof.

B. Any Limited Partner who shall Transfer all of its Partnership Units in a Transfer (i) permitted pursuant to this Article 11 where such transferee was admitted as a Substituted Limited Partner, (ii) pursuant to the exercise of its rights to effect a redemption of all of its Partnership Units pursuant to a Redemption under Section 15.1 hereof and/or pursuant to any Partnership Unit Designation or (iii) to the General Partner, whether or not pursuant to Section 15.1.B hereof, shall cease to be a Limited Partner.

C. If any Partnership Unit is Transferred in compliance with the provisions of this Article 11, or is redeemed by the Partnership, or acquired by the General Partner pursuant to Section 15.1 hereof, on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit attributable to such Partnership Unit for such Partnership Year shall be allocated to the transferor Partner or the Tendering Party (as the case may be) and, in the case of a Transfer other than a Redemption, to the transferee Partner, by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the General Partner in its sole and absolute discretion. Solely for purposes of making such allocations, unless the General Partner decides in its sole and absolute discretion to use another method permitted under the Code, each of such items for the calendar month in which a Transfer occurs shall be allocated to the transferee Partner and none of such items for the calendar month in which a Transfer or a Redemption occurs shall be allocated to the transferor Partner, or the Tendering Party (as the case may be) if such Transfer occurs on or before the fifteenth (15th) day of the month, otherwise such items shall be allocated to the transferor. All distributions of Available Cash attributable to such Partnership Unit with respect to which the Partnership Record Date is before the date of such Transfer, assignment or Redemption shall be made to the transferor Partner or the Tendering Party (as the case may be) and, in the case of a Transfer other than a Redemption, all distributions of Available Cash thereafter attributable to such Partnership Unit shall be made to the transferee Partner.

D. In addition to any other restrictions on Transfer herein contained, in no event may any Transfer of a Partnership Interest by any Partner (including any Redemption, any acquisition of Partnership Units by the General Partner or any other acquisition of Partnership Units by the Partnership) be made: (i) to any person or entity who lacks the legal right, power or capacity to own a Partnership Interest; (ii) in violation of applicable law; (iii) except with the Consent of the General Partner, of any component portion of a Partnership Interest, such as the Capital Account, or rights to distributions, separate and apart from all other components of a Partnership Interest; (iv) in the event that such Transfer could cause either the General Partner or any General Partner Affiliate to cease to comply with the REIT Requirements or to cease to qualify as a "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)); (v) except with the Consent of the General Partner, if such Transfer could, based on the advice of counsel to the Partnership or the General Partner, cause a termination of the Partnership for Federal or state income tax purposes (except as a result of the Redemption (or acquisition by the General Partner) of all Partnership Common Units held by all Limited Partners); (vi) if such Transfer could, based on the advice of legal counsel to the Partnership or the General Partner, cause the Partnership to cease to be classified as a partnership for federal income tax purposes (except as a result of the Redemption (or acquisition by the General Partner) of all Partnership Common Units held by all Limited Partners); (vii) if such Transfer would cause the Partnership to become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in ERISA Section 3(14)) or a "disqualified person" (as defined in Code Section 4975(c)); (viii) if such Transfer could, based on the advice of legal counsel to the Partnership or the General Partner, cause any portion of the assets of the Partnership to constitute assets of any employee benefit plan pursuant to Department of Labor Regulations Section 2510.3-101; (ix) if such Transfer requires the registration of such Partnership Interest pursuant to any applicable Federal or state securities laws; (x) except with the Consent of the General Partner, if such Transfer (1) could be treated as effectuated through an "established securities market" or a "secondary market" (or the substantial equivalent thereof) within the meaning of Section 7704 of the Code and the Regulations promulgated thereunder, (2) could cause the Partnership to become a "publicly traded partnership," as such term is defined in Sections 469(k)(2) or 7704(b) of the Code, (3) could be in violation of Section 3.4.C(iii), or (4) could cause the Partnership to fail one or more of the Safe Harbors; (xi) if such Transfer causes the Partnership (as opposed to the General Partner) to become a reporting company under the Exchange Act; or (xii) if such Transfer subjects the Partnership to regulation under the Investment Company Act of 1940, the Investment Advisors Act of 1940 or ERISA, each as amended. The General Partner shall, in its sole discretion, be permitted to take all action necessary to prevent the Partnership from being classified as a "publicly traded partnership" under Code Section 7704.

E. Transfers pursuant to this Article 11 may only be made on the first day of a fiscal quarter of the Partnership, unless the General Partner otherwise Consents.

ARTICLE 12
ADMISSION OF PARTNERS

Section 12.1 *Admission of Successor General Partner*. A successor to all of the General Partner's General Partner Interest pursuant to a Transfer permitted by Section 11.2 hereof who is proposed to be admitted as a successor General Partner shall be admitted to the Partnership as the General Partner, effective immediately upon such Transfer. Upon any such Transfer and the admission of any such transferee as a successor General Partner in accordance with this Section 12.1, the transferor General Partner shall be relieved of its obligations under this Agreement and shall cease to be a general partner of the Partnership without any separate Consent of the Limited Partners or the consent or approval of any other Partners. Any such successor General Partner shall carry on the business and affairs of the Partnership without dissolution. In each case, the admission shall be subject to the successor General Partner executing and delivering to the Partnership an acceptance of all of the terms and conditions of this Agreement and such other documents or instruments as may be required to effect the admission of such Person as a General Partner. Upon any such Transfer, the transferee shall become the successor General Partner for all purposes herein, and shall be vested with the powers and rights of the transferor General Partner, and shall be liable for all obligations and responsible for all duties of the General Partner. Concurrently with, and as evidence of, the admission of a successor General Partner, the General Partner shall amend Exhibit A and the books and records of the Partnership to reflect the name, address and number and classes and/or series of Partnership Units of such successor General Partner.

Section 12.2 *Admission of Additional Limited Partners*.

A. After the admission to the Partnership of the Original Limited Partners, a Person (other than an existing Partner) who makes a Capital Contribution to the Partnership in exchange for Partnership Units and in accordance with this Agreement shall be admitted to the Partnership as an Additional Limited Partner only upon furnishing to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all of the terms and conditions of this Agreement, including, without limitation, the power of attorney granted in Section 2.4 hereof, (ii) a counterpart signature page to this Agreement executed by such Person and (iii) such other documents or instruments as may be required in the sole and absolute discretion of the General Partner in order to effect such Person's admission as an Additional Limited Partner. Concurrently with, and as evidence of, the admission of an Additional Limited Partner, the General Partner shall amend Exhibit A and the books and records of the Partnership to reflect the name, address and number and classes and/or series of Partnership Units of such Additional Limited Partner.

B. Notwithstanding anything to the contrary in this Section 12.2, no Person shall be admitted as an Additional Limited Partner without the Consent of the General Partner. The admission of any Person as an Additional Limited Partner shall become effective on the date upon which the name of such Person is recorded on the books and records of the Partnership, following the Consent of the General Partner to such admission and the satisfaction of all the conditions set forth in Section 12.2.A.

C. If any Additional Limited Partner is admitted to the Partnership on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit allocable among Holders for such Partnership Year shall be allocated among such Additional Limited Partner and all other Holders by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the General Partner. Solely for purposes of making such allocations, each of such items for the calendar month in which an admission of any Additional Limited Partner occurs shall be allocated among all the Holders including such Additional Limited Partner, in accordance with the principles described in Section 11.6.C hereof. All distributions of Available Cash with respect to which the Partnership Record Date is before the date of such admission shall be made solely to Partners and Assignees other than the Additional Limited Partner, and all distributions of Available Cash thereafter shall be made to all the Partners and Assignees including such Additional Limited Partner.

D. Any Additional Limited Partner admitted to the Partnership that is an Affiliate of the General Partner shall be deemed to be a "General Partner Affiliate" hereunder and shall be reflected as such on Exhibit A and the books and records of the Partnership.

Section 12.3 *Amendment of Agreement and Certificate of Limited Partnership*. For the admission to the Partnership of any Partner, the General Partner shall take all steps necessary and appropriate under the Act to amend the records of the Partnership and, if necessary, to prepare as soon as practical an amendment of this Agreement (including an amendment of Exhibit A) and, if required by law, shall prepare and file an amendment to the Certificate and may for this purpose exercise the power of attorney granted pursuant to Section 2.4 hereof.

Section 12.4 *Limit on Number of Partners*. Unless otherwise permitted by the General Partner in its sole and absolute discretion, no Person shall be admitted to the Partnership as an Additional Limited Partner if the effect of such admission would be to cause the Partnership to have a number of Partners that would cause the Partnership to become a reporting company under the Exchange Act.

Section 12.5 *Admission*. A Person shall be admitted to the Partnership as a limited partner of the Partnership or a general partner of the Partnership only upon strict compliance, and not upon substantial compliance, with the requirements set forth in this Agreement for admission to the Partnership as a Limited Partner or a General Partner.

ARTICLE 13
DISSOLUTION, LIQUIDATION AND TERMINATION

Section 13.1 *Dissolution*. The Partnership shall not be dissolved by the admission of Substituted Limited Partners or Additional Limited Partners or by the admission of a successor General Partner in accordance with the terms of this Agreement. Upon the withdrawal of the General Partner, any successor General Partner shall continue the business and affairs of the Partnership without dissolution. However, the Partnership shall dissolve, and its affairs shall be wound up, upon the first to occur of any of the following (each a "*Liquidating Event*"):

A. an event of withdrawal, as defined in Section 50-73.28 of the Act (including, without limitation, bankruptcy), or the withdrawal in violation of this Agreement, of the last remaining General Partner unless, within ninety (90) days after the withdrawal, a Majority in Interest of the Partners remaining agree in writing, in their sole and absolute discretion, to continue the Partnership and to the appointment, effective as of the date of such withdrawal, of a successor General Partner;

B. an election to dissolve the Partnership made by the General Partner in its sole and absolute discretion, with or without the Consent of the Partners;

C. entry of a decree of judicial dissolution of the Partnership pursuant to the provisions of the Act;

D. any sale or other disposition of (other than the attachment of a lien or security interest in) all or substantially all of the assets of the Partnership outside the ordinary course of the Partnership's business or a related series of transactions that, taken together, result in the sale or other disposition of (other than the attachment of a lien or security interest in) all or substantially all of the assets of the Partnership outside the ordinary course of the Partnership's business; or

E. the Redemption or other acquisition by the Partnership or the General Partner of all Partnership Units other than Partnership Units held by the General Partner.

Section 13.2 *Winding Up*.

A. Upon the occurrence of a Liquidating Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors and the Holders. After the occurrence of a Liquidating Event, no Holder shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Partnership's business and affairs. The General Partner (or, in the event that there is no remaining General Partner or the General Partner has dissolved, become bankrupt within the meaning of the Act or ceased to operate, any Person elected by a Majority in Interest of the Partners (the General Partner or such other Person being referred to herein as the "*Liquidator*")) shall be responsible for overseeing the winding up and dissolution of the Partnership and shall take full account of the Partnership's liabilities and property, and the Partnership property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and

the proceeds therefrom (which may, to the extent determined by the General Partner, include shares of stock in the General Partner) shall be applied and distributed in the following order:

(1) First, to the satisfaction of all of the Partnership's debts and liabilities to creditors other than the Holders (whether by payment or the making of reasonable provision for payment thereof);

(2) Second, to the satisfaction of all of the Partnership's debts and liabilities to the General Partner (whether by payment or the making of reasonable provision for payment thereof), including, but not limited to, amounts due as reimbursements under Section 7.4 hereof;

(3) Third, to the satisfaction of all of the Partnership's debts and liabilities to the other Holders (whether by payment or the making of reasonable provision for payment thereof); and

(4) Fourth, to the Partners in accordance with their positive Capital Account balances, determined after taking into account all Capital Account adjustments for all prior periods and the Partnership taxable year during which the liquidation occurs (other than those made as a result of the liquidating distribution set forth in this Section 13.2.A(4)).

The General Partner shall not receive any additional compensation for any services performed pursuant to this Article 13 other than reimbursement of its expenses as set forth in Section 7.4.

B. Notwithstanding the provisions of Section 13.2.A hereof that require liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if prior to or upon dissolution of the Partnership, the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Holders, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (including to those Holders as creditors) and/or distribute to the Holders, in lieu of cash, as tenants in common and in accordance with the provisions of Section 13.2.A hereof, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interest of the Holders, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

C. If any Holder has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), except as otherwise agreed to by such Holder, such Holder shall have no obligation to make any contribution to the capital of the Partnership with respect to such deficit, and such deficit shall not be considered a debt owed to the Partnership or to any other Person for any purpose whatsoever.

D. In the sole and absolute discretion of the General Partner or the Liquidator, a pro rata portion of the distributions that would otherwise be made to the Holders pursuant to this Article 13 may be:

(1) distributed to a trust established for the benefit of the General Partner and the Holders for the purpose of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the General Partner arising out of or in connection with the Partnership and/or Partnership activities. The assets of any such trust shall be distributed to the Holders, from time to time, in the reasonable discretion of the General Partner, in the same proportions and amounts as would otherwise have been distributed to the Holders pursuant to this Agreement; or

(2) withheld or escrowed to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, provided that such withheld or escrowed amounts shall be distributed to the Holders in the manner and order of priority set forth in Section 13.2.A hereof as soon as practicable.

Section 13.3 *Deemed Contribution and Distribution*. Notwithstanding any other provision of this Article 13, in the event that the Partnership is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), but no Liquidating Event has occurred, the Partnership's Property shall not be liquidated, the Partnership's liabilities shall not be paid or discharged and the Partnership's affairs shall not be wound up. Instead, for federal income tax purposes the Partnership shall be deemed to have contributed all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and immediately thereafter, distributed Partnership Units to the

Partners in the new partnership in accordance with their respective Capital Accounts in liquidation of the Partnership, and the new partnership is deemed to continue the business of the Partnership. Nothing in this Section 13.3 shall be deemed to have constituted a Transfer to an Assignee as a Substituted Limited Partner without compliance with the provisions of Section 11.4 or Section 13.3 hereof.

Section 13.4 *Rights of Holders*. Except as otherwise provided in this Agreement and subject to the rights of any Holder of any Partnership Interest set forth in a Partnership Unit Designation, (a) each Holder shall look solely to the assets of the Partnership for the return of its Capital Contribution, (b) no Holder shall have the right or power to demand or receive property other than cash from the Partnership and (c) no Holder shall have priority over any other Holder as to the return of its Capital Contributions, distributions or allocations.

Section 13.5 *Notice of Dissolution*. In the event that a Liquidating Event occurs or an event occurs that would, but for an election or objection by one or more Partners pursuant to Section 13.1 hereof, result in a dissolution of the Partnership, the General Partner shall, within thirty (30) days thereafter, provide written notice thereof to each Holder and, in the General Partner's sole and absolute discretion or as required by the Act, to all other parties with whom the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner), and the General Partner may, or, if required by the Act, shall, publish notice thereof in a newspaper of general circulation in each place in which the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner).

Section 13.6 *Cancellation of Certificate of Limited Partnership*. Upon the completion of the liquidation of the Partnership cash and property as provided in Section 13.2 hereof, the Partnership shall be terminated, a certificate of cancellation shall be filed with the SCC, all qualifications of the Partnership as a foreign limited partnership or association in jurisdictions other than the Commonwealth of Virginia shall be cancelled, and such other actions as may be necessary to terminate the Partnership shall be taken.

Section 13.7 *Reasonable Time for Winding-Up*. A reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Partnership and the liquidation of its assets pursuant to Section 13.2 hereof, in order to minimize any losses otherwise attendant upon such winding-up, and the provisions of this Agreement shall remain in effect between and among the Partners during the period of liquidation; *provided*, *however*, reasonable efforts shall be made to complete such winding-up within twenty-four (24) months after the adoption of a plan of liquidation of the General Partner, as provided in Section 562(b)(2)(B) of the Code, if necessary, in the sole and absolute discretion of the General Partner.

ARTICLE 14
PROCEDURES FOR ACTIONS AND CONSENTS OF PARTNERS; AMENDMENTS; MEETINGS

Section 14.1 *Procedures for Actions and Consents of Partners*. The actions requiring Consent of any Partner or Partners pursuant to this Agreement, including Section 7.3 hereof, or otherwise pursuant to applicable law, are subject to the procedures set forth in this Article 14.

Section 14.2 *Amendments*. Amendments to this Agreement may be proposed by the General Partner or by Limited Partners holding twenty-five percent (25%) or more of the Partnership Interests held by Limited Partners and, except as set forth in Section 7.3.B and Section 7.3.C and subject to Section 7.3.D and the rights of any Holder of Partnership Interest set forth in a Partnership Unit Designation, shall be approved by the Consent of the Partners. Following such proposal, the General Partner shall submit to the Partners entitled to vote thereon any proposed amendment that, pursuant to the terms of this Agreement, requires the consent, approval or vote of such Partners. The General Partner shall seek the consent, approval or vote of the Partners entitled to vote thereon on any such proposed amendment in accordance with Section 14.3 hereof.

Section 14.3 *Actions and Consents of the Partners*.

A. Meetings of the Partners may be called only by the General Partner to transact any business that the General Partner determines. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Partners entitled to act at the meeting not less than seven (7) days nor more than sixty (60) days prior to the date of such meeting. Partners may vote in person or by proxy at such meeting. Unless approval by a different number or proportion of the Partners is required by this Agreement (including without limitation Section 11.2.D), the affirmative vote of Partners holding a majority of the Percentage Interests held by the

Partners entitled to act on any proposal shall be sufficient to approve such proposal at a meeting of the Partners. Whenever the vote, consent or approval of Partners is permitted or required under this Agreement, such vote, consent or approval may be given at a meeting of Partners or may be given at a meeting of Partners or in accordance with the procedure prescribed in Section 14.3.B hereof.

B. Any action requiring the Consent of any Partner or group of Partners pursuant to this Agreement or that is required or permitted to be taken at a meeting of the Partners may be taken without a meeting if a consent in writing or by electronic transmission setting forth the action so taken or consented to is given by Partners whose affirmative vote would be sufficient to approve such action or provide such Consent at a meeting of the Partners. Such consent may be in one instrument or in several instruments, and shall have the same force and effect as the affirmative vote of such Partners at a meeting of the Partners. Such consent shall be filed with the General Partner. An action so taken shall be deemed to have been taken at a meeting held on the effective date so certified. For purposes of obtaining a Consent in writing or by electronic transmission to any matter other than Partnership Approval of a General Partner Interest Transfer, the General Partner may require a response within a reasonable specified time, but not less than fifteen (15) days, and failure to respond in such time period shall constitute a Consent that is consistent with the General Partner's recommendation with respect to the proposal; *provided*, *however*, that an action shall become effective at such time as requisite Consents are received even if prior to such specified time.

C. Each Partner entitled to act at a meeting of the Partners may authorize any Person or Persons to act for it by proxy on all matters in which a Partner is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Each proxy must be signed by the Partner or its attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy (or there is receipt of a proxy authorizing a later date). Every proxy shall be revocable at the pleasure of the Partner executing it, such revocation to be effective upon the Partnership's receipt of written notice of such revocation from the Partner executing such proxy, unless such proxy states that it is irrevocable and is coupled with an interest.

D. The General Partner may set, in advance, a record date for the purpose of determining the Partners (i) entitled to Consent to any action (other than any General Partner Interest Transfer), (ii) entitled to receive notice of or vote at any meeting of the Partners or (iii) in order to make a determination of Partners for any other proper purpose. Such date, in any case, (x) shall not be prior to the close of business on the day the record date is fixed and shall be not more than ninety (90) days and, in the case of a meeting of the Partners, not less than five (5) days, before the date on which the meeting is to be held or Consent is to be given and (y) shall be, with respect to the determination of the existence of Partnership Approval, the record date established by the General Partner for the approval of its stockholders for the event constituting a General Partner Interest Transfer. If no record date is fixed, the record date for the determination of Partners entitled to notice of or to vote at a meeting of the Partners shall be at the close of business on the day on which the notice of the meeting is sent, and the record date for any other determination of Partners shall be the effective date of such Partner action, distribution or other event. When a determination of the Partners entitled to vote at any meeting of the Partners has been made as provided in this section, such determination shall apply to any adjournment thereof.

E. Each meeting of Partners shall be conducted by the General Partner or such other Person as the General Partner may appoint pursuant to such rules for the conduct of the meeting as the General Partner or such other Person deems appropriate in its sole and absolute discretion. Without limitation, meetings of Partners may be conducted in the same manner as meetings of the General Partner's stockholders and may be held at the same time as, and as part of, the meetings of the General Partner's stockholders.

ARTICLE 15
GENERAL PROVISIONS

Section 15.1 *Redemption Rights of Qualifying Parties*.

A. After the applicable Twelve-Month Period, a Qualifying Party shall have the right (subject to the terms and conditions set forth herein) to require the Partnership to redeem all or a portion of the Partnership Common Units held by such Tendering Party (Partnership Common Units that have in fact been tendered for redemption being hereafter referred to as "*Tendered Units")* in exchange (a "*Redemption*") for the Cash Amount payable on the Specified Redemption Date. The Partnership may, in the General Partner's sole and absolute discretion, redeem Tendered Units at the request of the Holder thereof prior to the end of the applicable Twelve-Month Period (subject to the terms and conditions set forth herein) (a "*Special Redemption*"); *provided*, *however*, that the General Partner

first receives a legal opinion to the same effect as the legal opinion described in Section 15.1.G of this Agreement. Any Redemption shall be exercised pursuant to a Notice of Redemption delivered to the General Partner by the Qualifying Party when exercising the Redemption right (the "*Tendering Party*"). The Partnership's obligation to effect a Redemption, however, shall not arise or be binding against the Partnership until the earlier of (i) the date the General Partner notifies the Tendering Party that the General Partner declines to acquire some or all of the Tendered Units under Section 15.1.B hereof following receipt of a Notice of Redemption and (ii) the Business Day following the Cut-Off Date. In the event of a Redemption, the Cash Amount shall be delivered as a certified or bank check payable to the Tendering Party or, in the General Partner's sole and absolute discretion, in immediately available funds, in each case, on or before the tenth (10th) Business Day following the date on which the General Partner receives a Notice of Redemption from the Tendering Party.

B. Notwithstanding the provisions of Section 15.1.A hereof, on or before the close of business on the Cut-Off Date, the General Partner may, in the General Partner's sole and absolute discretion but subject to the Ownership Limit, elect to acquire some or all of the Tendered Units from the Tendering Party in exchange for REIT Shares (the percentage of such Tendered Units to be acquired by the General Partner in exchange for REIT Shares being referred to as the "*Applicable Percentage*"). If the General Partner elects to acquire some or all of the Tendered Units pursuant to this Section 15.1.B, the General Partner shall give written notice thereof to the Tendering Party on or before the close of business on the Cut-Off Date. If the General Partner elects to acquire any of the Tendered Units for REIT Shares, the General Partner shall issue and deliver such REIT Shares to the Tendering Party pursuant to the terms of this Section 15.1.B, in which case (1) the General Partner shall assume directly the obligation with respect thereto and shall satisfy the Tendering Party's exercise of its Redemption right with respect to such Tendered Units and (2) such transaction shall be treated, for federal income tax purposes, as a transfer by the Tendering Party of such Tendered Units to the General Partner in exchange for the REIT Shares Amount. If the General Partner so elects, on the Specified Redemption Date, the Tendering Party shall sell such number of the Tendered Units to the General Partner in exchange for a number of REIT Shares equal to the product of the REIT Shares Amount and the Applicable Percentage. The Tendering Party shall submit (i) such information, certification or affidavit as the General Partner may reasonably require in connection with the application of the Ownership Limit to any such acquisition and (ii) such written representations, investment letters, legal opinions or other instruments necessary, in the General Partner's view, to effect compliance with the Securities Act. In the event of a purchase of the Tendered Units by the General Partner pursuant to this Section 15.1.B, the Tendering Party shall no longer have the right to cause the Partnership to effect a Redemption of such Tendered Units and, upon notice to the Tendering Party by the General Partner given on or before the close of business on the Cut-Off Date that the General Partner has elected to acquire some or all of the Tendered Units pursuant to this Section 15.1.B, the obligation of the Partnership to effect a Redemption of the Tendered Units as to which the General Partner's notice relates shall not accrue or arise. A number of REIT Shares equal to the product of the Applicable Percentage and the REIT Shares Amount, if applicable, shall be delivered by the General Partner as duly authorized, validly issued, fully paid and non-assessable REIT Shares and, if applicable, Rights, free of any pledge, lien, encumbrance or restriction, other than the Ownership Limit, the Securities Act and relevant state securities or "blue sky" laws. Neither any Tendering Party whose Tendered Units are acquired by the General Partner pursuant to this Section 15.1.B, any Partner, any Assignee nor any other interested Person shall have any right to require or cause the General Partner to register, qualify or list any REIT Shares owned or held by such Person, whether or not such REIT Shares are issued pursuant to this Section 15.1.B, with the SEC, with any state securities commissioner, department or agency, under the Securities Act or the Exchange Act or with any stock exchange; *provided*, *however*, that this limitation shall not be in derogation of any registration or similar rights granted pursuant to any other written agreement between the General Partner and any such Person. Notwithstanding any delay in such delivery, the Tendering Party shall be deemed the owner of such REIT Shares and Rights for all purposes, including, without limitation, rights to vote or consent, receive dividends, and exercise rights, as of the Specified Redemption Date. REIT Shares issued upon an acquisition of the Tendered Units by the General Partner pursuant to this Section 15.1.B may contain such legends regarding restrictions under the Securities Act and applicable state securities laws as the General Partner determines to be necessary or advisable in order to ensure compliance with such laws.

C. Notwithstanding the provisions of Section 15.1.A and 15.1.B hereof, the Tendering Parties shall have no rights under this Agreement that would otherwise be prohibited by the Charter. To the extent that any attempted Redemption or acquisition of the Tendered Units by the General Partner pursuant to Section 15.1.B hereof would be in violation of this Section 15.1.C, it shall be null and void *ab initio*, and the Tendering Party shall not acquire any rights or economic interests in REIT Shares otherwise issuable by the General Partner under Section 15.1.B hereof or cash otherwise payable under Section 15.1.A hereof.

D. If the General Partner does not elect to acquire the Tendered Units pursuant to Section 15.1.B hereof:

(1) The Partnership may elect to raise funds for the payment of the Cash Amount either (a) by requiring that the General Partner contribute to the Partnership funds from the proceeds of a registered public offering by the General Partner of REIT Shares sufficient to purchase the Tendered Units or (b) from any other sources (including, but not limited to, the sale of any Property and the incurrence of additional Debt) available to the Partnership. The General Partner shall make a Capital Contribution of any such amounts to the Partnership for an additional General Partner Interest. Any such contribution shall entitle the General Partner to an equitable Percentage Interest adjustment.

(2) If the Cash Amount is not paid on or before the Specified Redemption Date, interest shall accrue with respect to the Cash Amount from the day after the Specified Redemption Date to and including the date on which the Cash Amount is paid at a rate equal to the base rate on corporate loans at large United States money center commercial banks, as published from time to time in the Wall Street Journal (but not higher than the maximum lawful rate).

E. Notwithstanding the provisions of Section 15.1.B hereof, the General Partner shall not, under any circumstances, elect to acquire any Tendered Units in exchange for REIT Shares if such exchange would be prohibited under the Charter.

F. Notwithstanding anything herein to the contrary (but subject to Section 15.1.C hereof), with respect to any Redemption (or any tender of Partnership Common Units for Redemption if the Tendered Units are acquired by the General Partner pursuant to Section 15.1.B hereof) pursuant to this Section 15.1:

(1) All Partnership Common Units acquired by the General Partner pursuant to Section 15.1.B hereof shall automatically, and without further action required, be converted into and deemed to be a General Partner Interest comprised of the same number of Partnership Common Units.

(2) Subject to the Ownership Limit, no Tendering Party may effect a Redemption for less than one thousand (1,000) Partnership Common Units or, if such Tendering Party holds (as a Limited Partner or, economically, as an Assignee) less than one thousand (1,000) Partnership Common Units, all of the Partnership Common Units held by such Tendering Party, without, in each case, the Consent of the General Partner.

(3) If (i) a Tendering Party surrenders its Tendered Units during the period after the Partnership Record Date with respect to a distribution and before the record date established by the General Partner for a distribution to its stockholders of some or all of its portion of such Partnership distribution, and (ii) the General Partner elects to acquire any of such Tendered Units in exchange for REIT Shares pursuant to Section 15.1.B, such Tendering Party shall pay to the General Partner on the Specified Redemption Date an amount in cash equal to the portion of the Partnership distribution in respect of the Tendered Units exchanged for REIT Shares, insofar as such distribution relates to the same period for which such Tendering Party would receive a distribution in respect of such REIT Shares.

(4) The consummation of such Redemption (or an acquisition of Tendered Units by the General Partner pursuant to Section 15.1.B hereof, as the case may be) shall be subject to the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Act.

(5) The Tendering Party shall continue to own (subject, in the case of an Assignee, to the provisions of Section 11.5 hereof) all Partnership Common Units subject to any Redemption, and be treated as a Limited Partner or an Assignee, as applicable, with respect to such Partnership Common Units for all purposes of this Agreement, until such Partnership Common Units are either paid for by the Partnership pursuant to Section 15.1.A hereof or transferred to the General Partner and paid for, by the issuance of the REIT Shares, pursuant to Section 15.1.B hereof on the Specified Redemption Date. Until a Specified Redemption Date and an acquisition of the Tendered Units by the General Partner pursuant to Section 15.1.B hereof, the Tendering Party shall have no rights as a stockholder of the General Partner with respect to the REIT Shares issuable in connection with such acquisition.

G. In connection with an exercise of Redemption rights pursuant to this Section 15.1, except as otherwise Consented to by the General Partner, the Tendering Party shall submit the following to the General Partner, in addition to the Notice of Redemption:

(1) A written affidavit, dated the same date as the Notice of Redemption, (a) disclosing the actual and constructive ownership, as determined for purposes of Code Sections 856(a)(6) and 856(h), of REIT Shares by (i) such

Tendering Party and (ii) to the best of their knowledge any Related Party and (b) representing that, after giving effect to the Redemption or an acquisition of the Tendered Units by the General Partner pursuant to Section 15.1.B hereof, neither the Tendering Party nor to the best of their knowledge any Related Party will own REIT Shares in violation of the Ownership Limit;

(2) A written representation that neither the Tendering Party nor to the best of their knowledge any Related Party has any intention to acquire any additional REIT Shares prior to the closing of the Redemption or an acquisition of the Tendered Units by the General Partner pursuant to Section 15.1.B hereof on the Specified Redemption Date; and

(3) An undertaking to certify, at and as a condition to the closing of (i) the Redemption or (ii) the acquisition of the Tendered Units by the General Partner pursuant to Section 15.1.B hereof on the Specified Redemption Date, that either (a) the actual and constructive ownership of REIT Shares by the Tendering Party and to the best of their knowledge any Related Party remain unchanged from that disclosed in the affidavit required by Section 15.1.G(1) or (b) after giving effect to the Redemption or an acquisition of the Tendered Units by the General Partner pursuant to Section 15.1.B hereof, neither the Tendering Party nor to the best of their knowledge any Related Party shall own REIT Shares in violation of the Ownership Limit.

(4) In connection with any Special Redemption, the General Partner shall have the right to receive an opinion of counsel reasonably satisfactory to it to the effect that the proposed Special Redemption will not cause the Partnership or the General Partner to violate any Federal or state securities laws or regulations applicable to the Special Redemption, the issuance and sale of the Tendered Units to the Tendering Party or the issuance and sale of REIT Shares to the Tendering Party pursuant to Section 15.1.B of this Agreement.

Section 15.2 *Addresses and Notice*. Any notice, demand, request or report required or permitted to be given or made to a Partner or Assignee under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written or electronic communication (including by telecopy, facsimile, electronic mail or commercial courier service) to the Partner, or Assignee at the address set forth in Exhibit A or Exhibit B (as applicable) or such other address of which the Partner shall notify the General Partner in accordance with this Section 15.2.

Section 15.3 *Titles and Captions*. All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" or "Sections" are to Articles and Sections of this Agreement.

Section 15.4 *Pronouns and Plurals*. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

Section 15.5 *Further Action*. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 15.6 *Binding Effect*. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.7 *Waiver*.

A. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

B. The restrictions, conditions and other limitations on the rights and benefits of the Limited Partners contained in this Agreement, and the duties, covenants and other requirements of performance or notice by the Limited Partners, are for the benefit of the Partnership and, except for an obligation to pay money to the Partnership, may be waived or relinquished by the General Partner, in its sole and absolute discretion, on behalf of the Partnership in one or more instances from time to time and at any time; *provided*, *however*, that any such waiver or relinquishment may not be made if it would have the effect of (i) creating liability for any other Limited Partner, (ii) causing the Partnership to cease to qualify as a limited partnership, (iii) reducing the amount of cash otherwise distributable to the Limited Partners (other than any such reduction that affects all of the Limited Partners holding

the same class or series of Partnership Units on a uniform or pro rata basis, if approved by a Majority in Interest of the Partners holding such class or series of Partnership Units), (iv) resulting in the classification of the Partnership as an association or publicly traded partnership taxable as a corporation or (v) violating the Securities Act, the Exchange Act or any state "blue sky" or other securities laws; and *provided, further*, that any waiver relating to compliance with the Ownership Limit or other restrictions in the Charter shall be made and shall be effective only as provided in the Charter.

Section 15.8 *Counterparts*. This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto.

Section 15.9 *Applicable Law; Consent to Jurisdiction; Waiver of Jury Trial.*

A. This Agreement shall be construed and enforced in accordance with and governed by the laws of the Commonwealth of Virginia, without regard to the principles of conflicts of law. In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provisions of this Agreement shall control and take precedence.

B. Each Partner hereby (i) submits to the non-exclusive jurisdiction of any state or federal court sitting in the Commonwealth of Virginia (collectively, the "*Virginia Courts*"), with respect to any dispute arising out of this Agreement or any transaction contemplated hereby to the extent such courts would have subject matter jurisdiction with respect to such dispute, (ii) irrevocably waives, and agrees not to assert by way of motion, defense, or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of any of the Virginia Courts, that its property is exempt or immune from attachment or execution, that the action is brought in an inconvenient forum, or that the venue of the action is improper, (iii) agrees that notice or the service of process in any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be properly served or delivered if delivered to such Partner at such Partner's last known address as set forth in the Partnership's books and records, and (iv) irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement or the transactions contemplated hereby.

Section 15.10 *Entire Agreement.* This Agreement contains all of the understandings and agreements between and among the Partners with respect to the subject matter of this Agreement and the rights, interests and obligations of the Partners with respect to the Partnership. Notwithstanding the immediately preceding sentence, the Partners hereby acknowledge and agree that the General Partner, without the approval of any Limited Partner, may enter into side letters or similar written agreements with Limited Partners that are not Affiliates of the General Partner, executed contemporaneously with the admission of such Limited Partner to the Partnership, affecting the terms hereof, as negotiated with such Limited Partner and which the General Partner in its sole discretion deems necessary, desirable or appropriate. The parties hereto agree that any terms, conditions or provisions contained in such side letters or similar written agreements with a Limited Partner shall govern with respect to such Limited Partner notwithstanding the provisions of this Agreement.

Section 15.11 *Invalidity of Provisions*. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 15.12 *Limitation to Preserve REIT Status*. Notwithstanding anything else in this Agreement, to the extent that the amount to be paid, credited, distributed or reimbursed by the Partnership to any REIT Partner or its officers, directors, employees or agents, whether as a reimbursement, fee, expense or indemnity (a "*REIT Payment*"), would constitute gross income to the REIT Partner for purposes of Code Section 856(c)(2) or Code Section 856(c)(3), then, notwithstanding any other provision of this Agreement, the amount of such REIT Payments, as selected by the General Partner in its discretion from among items of potential distribution, reimbursement, fees, expenses and indemnities, shall be reduced for any Partnership Year so that the REIT Payments, as so reduced, for or with respect to such REIT Partner shall not exceed the lesser of:

(i) an amount equal to the excess, if any, of (a) four and nine-tenths percent (4.9%) of the REIT Partner's total gross income (but excluding the amount of any REIT Payments and amounts excluded from gross income pursuant to Section 856(c)(5)(G) of the Code) for the Partnership Year that is described in subsections (A) through (I) of Code Section 856(c)(2) over (b) the amount of gross income (within the

meaning of Code Section 856(c)(2)) derived by the REIT Partner from sources other than those described in subsections (A) through (I) of Code Section 856(c)(2) (but not including the amount of any REIT Payments and amounts excluded from gross income pursuant to Section 856(c)(5)(G) of the Code); or

(ii) an amount equal to the excess, if any, of (a) twenty-four percent (24%) of the REIT Partner's total gross income (but excluding the amount of any REIT Payments and amounts excluded from gross income pursuant to Section 856(c)(5)(G) of the Code) for the Partnership Year that is described in subsections (A) through (I) of Code Section 856(c)(3) over (b) the amount of gross income (within the meaning of Code Section 856(c)(3)) derived by the REIT Partner from sources other than those described in subsections (A) through (I) of Code Section 856(c)(3) (but not including the amount of any REIT Payments and amounts excluded from gross income pursuant to Section 856(c)(5)(G) of the Code);

provided, however, that REIT Payments in excess of the amounts set forth in clauses (i) and (ii) above may be made if the General Partner, as a condition precedent, obtains an opinion of tax counsel that the receipt of such excess amounts should not adversely affect the REIT Partner's ability to qualify as a REIT. To the extent that REIT Payments may not be made in a Partnership Year as a consequence of the limitations set forth in this Section 15.12, such REIT Payments shall carry over and shall be treated as arising in the following Partnership Year if such carry over does not adversely affect the REIT Partner's ability to qualify as a REIT, provided, however, that any such REIT Payment shall not be carried over more than three Partnership Years, and any such remaining payments shall no longer be due and payable. The purpose of the limitations contained in this Section 15.12 is to prevent any REIT Partner from failing to qualify as a REIT under the Code by reason of such REIT Partner's share of items, including distributions, reimbursements, fees, expenses or indemnities, receivable directly or indirectly from the Partnership, and this Section 15.12 shall be interpreted and applied to effectuate such purpose.

Section 15.13 *No Partition*. No Partner nor any successor-in-interest to a Partner shall have the right while this Agreement remains in effect to have any property of the Partnership partitioned, or to file a complaint or institute any proceeding at law or in equity to have such property of the Partnership partitioned, and each Partner, on behalf of itself and its successors and assigns hereby waives any such right. It is the intention of the Partners that the rights of the parties hereto and their successors-in-interest to Partnership property, as among themselves, shall be governed by the terms of this Agreement, and that the rights of the Partners and their respective successors-in-interest shall be subject to the limitations and restrictions as set forth in this Agreement.

Section 15.14 *No Third-Party Rights Created Hereby*. The provisions of this Agreement are solely for the purpose of defining the interests of the Holders, inter se; and no other person, firm or entity (i.e., a party who is not a signatory hereto or a permitted successor to such signatory hereto) shall have any right, power, title or interest by way of subrogation or otherwise, in and to the rights, powers, title and provisions of this Agreement. No creditor or other third party having dealings with the Partnership shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans to the Partnership or to pursue any other right or remedy hereunder or at law or in equity. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may any such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or any of the Partners.

Section 15.15 *No Rights as Stockholders*. Nothing contained in this Agreement shall be construed as conferring upon the Holders of Partnership Units any rights whatsoever as stockholders of the General Partner, including without limitation any right to receive dividends or other distributions made to stockholders of the General Partner or to vote or to consent or receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the General Partner or any other matter.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, this Agreement has been executed as of the date first written above.

GENERAL PARTNER:

WHEELER REAL ESTATE INVESTMENT TRUST, INC.,
a Maryland corporation,

By: /s/ Jon S. Wheeler
Jon S. Wheeler
President & Chairman

LIMITED PARTNER:

By: /s/ Jon S. Wheeler
Jon S. Wheeler

As of [ ], 20[ ]

EXHIBIT A

PARTNERS AND PARTNERSHIP UNITS

Name and Address of Partners	Partnership Units (Type and Amount)
General Partner:	
Wheeler Real Estate Investment Trust, Inc. Riversedge North 2529 Virginia Beach Boulevard Suite 200 Virginia Beach, Virginia 23452	[ ] Partnership Common Units
Limited Partners:	
TOTAL:	[ ] Partnership Common Units

EXHIBIT B

EXAMPLES REGARDING ADJUSTMENT FACTOR

For purposes of the following examples, it is assumed that (a) the Adjustment Factor in effect on [ ] is 1.0 and (b) on [ ] (the "*Partnership Record Date*" for purposes of these examples), prior to the events described in the examples, there are 100 REIT Shares issued and outstanding.

Example 1

On the Partnership Record Date, the General Partner declares a dividend on its outstanding REIT Shares in REIT Shares. The amount of the dividend is one REIT Share paid in respect of each REIT Share owned. Pursuant to Paragraph (i) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Partnership Record Date, effective immediately after the stock dividend is declared, as follows:

1.0 * 200/100 = 2.0

Accordingly, the Adjustment Factor after the stock dividend is declared is 2.0.

Example 2

On the Partnership Record Date, the General Partner distributes options to purchase REIT Shares to all holders of its REIT Shares. The amount of the distribution is one option to acquire one REIT Share in respect of each REIT Share owned. The strike price is $4.00 a share. The Value of a REIT Share on the Partnership Record Date is $5.00 per share. Pursuant to Paragraph (ii) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Partnership Record Date, effective immediately after the options are distributed, as follows:

1.0 * (100 + 100)/(100 + [100 * $4.00/$5.00]) = 1.1111

Accordingly, the Adjustment Factor after the options are distributed is 1.1111. If the options expire or become no longer exercisable, then the retroactive adjustment specified in Paragraph (ii) of the definition of "Adjustment Factor" shall apply.

Example 3

On the Partnership Record Date, the General Partner distributes assets to all holders of its REIT Shares. The amount of the distribution is one asset with a fair market value (as determined by the General Partner) of $1.00 in respect of each REIT Share owned. It is also assumed that the assets do not relate to assets received by the General Partner pursuant to a pro rata distribution by the Partnership. The Value of a REIT Share on the Partnership Record Date is $5.00 a share. Pursuant to Paragraph (iii) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Partnership Record Date, effective immediately after the assets are distributed, as follows:

1.0 * $5.00/($5.00 - $1.00) = 1.25

Accordingly, the Adjustment Factor after the assets are distributed is 1.25.

EXHIBIT C

NOTICE OF REDEMPTION

To: Wheeler Real Estate Investment Trust, Inc.

_____
_____
_____

The undersigned Limited Partner or Assignee hereby irrevocably tenders for Redemption Partnership Common Units in Wheeler Real Estate Investment Trust, L.P. in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of Wheeler Real Estate Investment Trust, L.P., dated as of [ ], 20[ ] as amended (the "*Agreement*"), and the Redemption rights referred to therein. The undersigned Limited Partner or Assignee:

(a) undertakes (i) to surrender such Partnership Common Units and any certificate therefor at the closing of the Redemption and (ii) to furnish to the General Partner, prior to the Specified Redemption Date, the documentation, instruments and information required under Section 15.1.G of the Agreement;

(b) directs that the certified check representing the Cash Amount, or the REIT Shares Amount, as applicable, deliverable upon the closing of such Redemption be delivered to the address specified below;

(c) represents, warrants, certifies and agrees that:

(i) the undersigned Limited Partner or Assignee is a Qualifying Party,

(ii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, good, marketable and unencumbered title to such Partnership Common Units, free and clear of the rights or interests of any other person or entity,

(iii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, the full right, power and authority to tender and surrender such Partnership Common Units as provided herein, and

(iv) the undersigned Limited Partner or Assignee has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender; and

(d) acknowledges that he will continue to own such Partnership Common Units until and unless either (1) such Partnership Common Units are acquired by the General Partner pursuant to Section 15.1.B of the Agreement or (2) such redemption transaction closes.

All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them respectively in the Agreement.

Dated:

Name of Limited Partner or Assignee:

(Signature of Limited Partner or Assignee)

(Street Address)

(City) (State) (Zip Code)

Signature Medallion Guaranteed by:

Issue Check Payable to:

Please insert social security or identifying number:

Exhibit 4.5

WHEELER REAL ESTATE INVESTMENT TRUST, INC.
WARRANT AGREEMENT

December 16, 2013

:

In connection with the closing of the transaction contemplated by that certain Securities Purchase Agreement, dated of even date herewith, by and among Wheeler Real Estate Investment Trust, Inc., a Maryland corporation (the "Company"), and the other signatories thereto (the "Securities Purchase Agreement"), the Company agrees to issue you a warrant (the "Warrant") to purchase the number of shares of common stock, $0.01 par value per share, of the Company set forth herein, subject to the terms and conditions contained herein. Unless otherwise separately defined herein, all capitalized terms in this agreement shall have the same meaning as is set forth in the Securities Purchase Agreement.

1. **Issuance of Warrant; Exercise Price**. The Warrant, which shall be in the form attached hereto as Exhibit A, shall be issued to you concurrently with the execution hereof for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged. The Warrant shall provide that you and such other holder(s) of the Warrant, as such may be assigned in accordance herewith, shall have the right to purchase an aggregate of up to shares of common stock for an exercise price equal to $4.75 per share (the "Exercise Price"), as described more fully herein. The number, character and Exercise Price of such shares are subject to adjustment as hereinafter provided, and the term "shares" shall mean, unless the context otherwise requires, the shares of common stock and other securities and property receivable upon exercise of the Warrant. The term "Exercise Price" shall mean, unless the context otherwise requires, the price per share purchasable under the Warrant as set forth in this Section 1, as adjusted from time to time pursuant to Section 4.

2. **No Impairment**. The Company shall not, by amendment of its organizational documents or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities, or any other action, avoid or seek to avoid the observance or performance of any other action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement or of the Warrant, but will at all times in good faith take any and all action as may be necessary in order to protect the rights of the holder(s) of the Warrant against impairment. Without limiting the generality of the foregoing, the Company (a) will at all times reserve and keep available, solely for issuance and delivery upon exercise of the Warrant, shares issuable from time to time upon exercise of the Warrant, (b) will not increase the par value of the shares receivable upon exercise of the Warrant above the amount payable in respect thereof upon such exercise, and (c) will take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and non-assessable shares upon the exercise of the Warrant, or any portion of it.

3. **Exercise of Warrant**.

(a) **Exercise for Cash**. At any time and from time to time on or after the date upon which the Company obtains shareholder approval for the Shareholder Matter in accordance with Section 4.12 of the Securities Purchase Agreement, if any, and expiring on December , 2018 at 11:59 p.m., Virginia Beach, Virginia time (the "Exercise Period"), the Warrant may be exercised as to all or any portion of the whole number of shares covered by the Warrant by the holder thereof by surrender of the Warrant, accompanied by a subscription for shares to be purchased in the form attached hereto as Exhibit B and by a check payable to the order of the Company in the amount required for purchase of the shares as to which the Warrant is being exercised, delivered to the Company at its principal office at 2529 Virginia Beach Boulevard, Suite 200, Virginia Beach, Virginia 23452. To the extent the Company does not obtain shareholder approval for the Shareholder Matter in accordance with Section 4.12 of the Securities Purchase Agreement, the Warrant shall not be exercisable.

(b) **Issuance of Certificates**. Upon the exercise of a Warrant in whole or in part, the Company will, within fifteen (15) days thereafter, at its expense (including the payment by the Company of any applicable issue or transfer taxes), cause to be issued in the name of and delivered to the Warrant holder a certificate or certificates for the number of fully paid and non-assessable shares to which such holder is entitled upon exercise of the Warrant. In the event such holder is entitled to a fractional share, in lieu thereof such holder shall be paid a cash amount equal to such fraction, multiplied by the Current Value of one full share on the date of exercise. Certificates for shares issuable by reason of the exercise of the Warrant shall be dated and shall be effective as of the date of the surrendering of the Warrant for exercise, notwithstanding any delays in the actual execution, issuance or delivery of the certificates for the shares so purchased. In the event the Warrant is exercised as to less than the aggregate amount of all shares issuable upon exercise of the Warrant held by such person, the Company shall issue a new Warrant to the holder of the Warrant so exercised covering the aggregate number of shares as to which the Warrant remains unexercised.

(c) **Current Value**. For purposes of this section, "Current Value" is defined (i) in the case for which a public market exists for the shares at the time of such exercise, at a price per share equal to (A) the average of the means between the closing bid and asked prices of the shares in the over-the-counter market for 20 consecutive business days commencing 30 business days before the date of notice of exercise of the Warrant, (B) if the shares are quoted on the Nasdaq Capital Market, at the average of the means of the daily closing bid and asked prices of the shares for 20 consecutive business days commencing 30 business days before the date of such notice, or (C) if the shares are listed on any other national securities exchange, at the average of the daily closing prices of the shares for 20 consecutive business days commencing 30 business days before the date of such notice, and (ii) in the case no public market exists at the time of such exercise, at the Appraised Value. For the purposes of this Agreement, "Appraised Value" is the value determined in accordance with the following procedures. For a period of five (5) days after the date of an event (a "Valuation Event") requiring determination of Current Value at a time when no public market exists for the shares (the "Negotiation Period"), each party to this Agreement agrees to negotiate in good faith to reach agreement upon the Appraised

Value of the securities or property at issue, as of the date of the Valuation Event, which will be the fair market value of such securities or property, without premium for control or discount for minority interests, illiquidity or restrictions on transfer. In the event that the parties are unable to agree upon the Appraised Value of such securities or other property by the end of the Negotiation Period, then the Appraised Value of such securities or property will be determined for purposes of this Agreement by a recognized appraisal or investment banking firm mutually agreeable to the holder(s) of the Warrant and the Company (the "Appraiser"). If the holder(s) of the Warrant and the Company cannot agree on an Appraiser within two (2) business days after the end of the Negotiation Period, the Company, on the one hand, and the holder(s) of the Warrant, on the other hand, will each select an Appraiser within ten (10) business days after the end of the Negotiation Period and those Appraisers will determine the fair market value of such securities or property, without premium for control or discount for minority interests, illiquidity or restrictions on transfer. Such independent Appraiser(s) will be directed to determine fair market value of such securities or property as soon as practicable, but in no event later than thirty (30) days from the date of its selection. The determination by Appraiser(s) of the fair market value will be conclusive and binding on all parties to this Agreement. If there are two Appraisers, and they do not agree as to fair market value, then fair market value shall be determined to be the average of the fair market values as determined by each Appraiser. Appraised Value of each share at a time when (i) the Company is not a reporting company under the Securities Exchange Act of 1934 and (ii) the shares are not traded in the organized securities markets, will, in all cases, be calculated by determining the Appraised Value of the entire Company taken as a whole and dividing that value by the number of shares then outstanding, without premium for control or discount for minority interests, illiquidity or restrictions on transfer. The costs of the Appraiser(s) will be borne by the Company.

4. **Protection Against Dilution**. The Exercise Price for the shares and number of shares issuable upon exercise of the Warrant, in whole or in part, is subject to adjustment from time to time as described in this Section 4. The Exercise Price will be equitably adjusted for any distributions or corporate actions that would otherwise have the effect of reducing the value of the warrants except for ordinary monthly cash dividends. Specifically, Exercise Price adjustments shall result from stock dividends, subdivisions, reclassifications, reorganization, consolidation, and any other extraordinary corporate action that has the effect of reducing the value of the warrants. This provision shall not, however, be interpreted to grant the Warrant holder price protection on any subsequent financing.

(a) **Certificate as to Adjustments**. In the event of adjustment as herein, the Company shall promptly mail to each Warrant holder a certificate setting forth the Exercise Price and number of shares issuable upon exercise after such adjustment and setting forth a brief statement of facts requiring such adjustment. Such certificate shall also set forth the kind and amount of stock or other securities or property into which the Warrant shall be exercisable after any adjustment of the Exercise Price as provided in this Agreement.

(b) **Minimum Adjustment**. Notwithstanding the foregoing, no certificate as to adjustment of the Exercise Price hereunder shall be made if such adjustment results in a change in the Exercise Price then in effect of less than five cents ($0.05) and any adjustment of

less than five cents ($0.05) of any Exercise Price shall be carried forward and shall be made at the time of and together with any subsequent adjustment that, together with any subsequent adjustment that, together with the adjustment or adjustments so carried forward, amounts to five cents ($0.05) or more; provided however, that upon the exercise of a Warrant, the Company shall have made all necessary adjustments (to the nearest cent) not theretofore made to the Exercise Price up to and including the date upon which such Warrant is exercised.

5. **Registration Rights**. The holder of this Warrant shall be entitled to the registration rights with respect to the shares as set forth in the Registration Rights Agreement of even date herewith, to which the holder and the Company are a party.

6. **Restrictive Legend**. Executed copies of this Agreement shall be filed in the principal office of the Company. Instruments evidencing all or part of the Warrant shall contain the legends included in Exhibit A.

7. **Successors and Assigns; Binding Effect**. This Agreement shall be binding upon and inure to the benefit of you and the Company and their respective successors and permitted assigns.

8. **Notices**. Any notice hereunder shall be given by registered or certified mail, if to the Company, at its principal office referred to in Section 3(a) and, if to a holder, to the holder's address shown in the Warrant ledger of the Company, provided that any holder may at any time on three (3) days' written notice to the Company designate or substitute another address where notice is to be given. Notice shall be deemed given and received after a certified or registered letter, properly addressed with postage prepaid, is deposited in the U.S. mail.

9. **Severability**. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the remainder of this Agreement.

10. **Assignment; Replacement of Warrant**. Subject to the terms of the Securities Act of 1933, relevant state securities law and the terms of this Agreement, this Agreement is assignable. Any assignment shall be effected in accordance with the Form of Assignment attached hereto as Exhibit C. If the Warrant is assigned, in whole or in part, the Warrant shall be surrendered at the principal office of the Company, and thereupon, in the case of a partial assignment, a new Warrant shall be issued to the holder thereof covering the number of shares not assigned, and the assignee shall be entitled to receive a new Warrant covering the number of shares so assigned. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of any Warrant and appropriate bond or indemnification protection, the Company shall issue a new Warrant of like tenor.

11. **Rights of Shareholders**. Until exercised, the Warrant shall not entitle the holder thereof to any of the rights of a shareholder of the Company.

12. **Governing Law**. This Agreement shall be governed and construed in accordance with the laws of the State of New York without giving effect to the principles of choice of laws thereof.

13. **Definition**. All references to the word "you" in this Agreement shall be deemed to apply with equal effect to any persons or entities to whom a Warrant has been transferred in accordance with the terms hereof, and, where appropriate, to any persons or entities holding shares issuable upon exercise of a Warrant.

14. **Headings**. The headings herein are for purposes of reference only and shall not limit or otherwise affect the meaning of any of the provisions hereof.

Very truly yours,

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

By: /s/ Jon S. Wheeler

Name: Jon S. Wheeler

Title: Chairman and Chief Executive Officer

Date: 12/16/13

Exhibit 10.2

EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made as of October 3, 2011 between WHLR Management Company ("Employer"), and Jon S. Wheeler ("Employee").

WHEREAS, Employer wishes to employ Employee to serve as its Chairman of the Board of Directors and President ("Chair and President"), and Employee is willing to undertake such employment in accordance with the terms of this Agreement; and

WHEREAS, Employee recognizes the importance to Employer, its affiliate, Wheeler Real Estate Investment Trust, Inc. ("the REIT") and its investors, and to the public of maintaining the high standards and quality associated with Employer's name and reputation, and is willing to maintain such high standards and quality; and

WHEREAS, Employer and the REIT are engaged in the business of acquisition, disposition, and property management of commercial real estate;

NOW, THEREFORE, it is agreed as follows:

1. TERM OF EMPLOYMENT: Subject to the provisions of this Agreement, Employer will employ Employee as its Chair and President beginning on October 3, 2011, and continuing for a period of one year ("Initial Term").

1.1 This Agreement shall automatically renew for successive one-year periods ("Renewal Term"), under and subject to the terms herein, unless either party gives two months written notice prior to the expiration of any Renewal Term ("Notice of Non-Renewal").

1.2 Employer, in its sole discretion, shall have the option but not the obligation of relieving Employee of actually performing any services following the giving of a Notice of Non-Renewal. Employee shall nonetheless be paid for the remainder of the notice period provided he does not violate any provision of this Agreement while receiving such compensation.

2. DUTIES: During the period of employment hereunder, Employee will devote his best efforts to the business and affairs of Employer, perform such services consistent with his position as are designated by Employer, and use his best efforts to promote the interest of Employer. Employee's duties shall include (a) being the senior officer responsible for administering day-to-day business operations, (b) identifying and acquiring targeted real estate investments, (c) overseeing the management of investments, (d) handling the disposition of real estate investments, and (e) finding sources of new equity capital from time to time. Employee pledges that during the term of this Agreement, Employee shall not, directly or indirectly, engage in any other business that could reasonably be expected to detract from Employee's ability to apply his best efforts to the performance of his duties hereunder but may perform other duties in support of and be compensated by one or more companies affiliated with Employer when reasonably requested to do so. Employee further agrees to comply with all rules, regulations and policies established or issued by and made applicable to Employer's employees generally.

3. COMPENSATION: Employer will pay Employee a regular base salary commensurate with his position and performance, such salary to be determined from time to time by Employer, but to be not less than $18,750 per month upon the initiation of this Agreement. Such salary will be payable in periodic installments on the same basis as that of other employees of Employer.

Employee shall receive reimbursements for cell phone, mileage, toll and travel expenses, including travel to enhance Employee's skills and/or visibility in Employer's industry, incurred by Employee in performance of his duties hereunder.

4. BENEFITS: Employee will participate in the various employee benefits provided for similarly situated employees of Employer and/or its affiliates. Employer reserves the right to modify, eliminate, or add to any of such benefits as it deems appropriate.

5. DEATH: If Employee should die during the Initial Term or any Renewal Term of this Agreement, Employer will, in lieu of payments due under other provisions of this Agreement, pay to Employee's estate for a period of two months, Employee's regular base salary at the time of the Employee's death plus any previously accrued and unpaid base salary. Thereafter, Employer will have no further obligation to Employee or his estate under this Agreement.

6. DISABILITY: In the event that Employee, by reason of physical or mental incapacity is unable, with or without reasonable accommodation, to perform his duties and responsibilities under this Agreement for 60 consecutive days or longer ("Disability"), then Employer will pay to Employee his regular base salary for an eight week period following the date on which the Disability first begins. Thereafter, Employer will have no obligation to pay Employee any compensation under this Agreement.

7. TERMINATION BY EMPLOYEE:

7.1 Employee may resign from the employment of Employer at any time upon 60 days prior written notice. Upon such resignation, Employee shall have no rights to any further compensation or benefits after the 60-day notice period has expired. Employer reserves the option but not the obligation to relieve Employee from performance of work during all of or any portion of this period, but absent mutual agreement or subsequent breach hereof, Employer shall be obligated to pay Employee the Employee's regular base salary for the entire 60-day notice period.

7.2 Employee may resign from Employer without giving 60 days notice but still be entitled 60 days pay if such resignation is a Resignation with Good Reason. A Resignation with Good Reason may occur if Employee is not compensated as provided herein for a period exceeding four weeks or is otherwise materially and adversely affected by Employer's breach hereof as to the terms and conditions of his employment. Provided further, that a Resignation with Good Reason along with the reasons on which it is based shall be given to Employer, which shall then have ten calendar days to address and cure such reasons.

8. NONDISCLOSURE:

8.1.1 Employee agrees to hold and safeguard any information about Employer, the REIT and or their shareholders and investors gained by Employee during the course of Employee's employment. Employee shall not, without the prior written consent of Employer,

disclose or make available to anyone for use outside Employer's organization at any time, either during his employment or subsequent to any termination of his employment, however such termination is effected, whether by Employee or Employer, with or without cause or Good Reason, or expiration or nonrenewal of this Agreement, any information about Employer or its shareholders or investors, whether or not such information was developed by Employee, except as required in the performance of Employee's duties for Employer or required by law.

8.2 Employee understands and agrees that any information about Employer is the property of Employer and is essential to the protection of Employer's goodwill and to the maintenance of Employer's competitive position and accordingly should be kept secret. Such information shall include, but not be limited to, information containing Employer's and the REIT's business plans, investment strategies, investors, and prospective investors, key elements of specific properties, computer programs, system documentation, manuals, ideas, or any other records or information belonging to Employer, the REIT or relating to Employer's business.

8.3 Notwithstanding anything in paragraph 8.1 or paragraph 8.2 to the contrary, Employer agrees that the obligations of Employee set forth in paragraphs 8.1 and 8.2 shall not apply to any information which (i) becomes known generally to the public through no fault of the Employee; (ii) is required by applicable law, legal process or any order or mandate of a court or other governmental authority to be disclosed; or (iii) is reasonably believed by Employee, based upon the advice of legal counsel, to be required to be disclosed in defense of a lawsuit or other legal or administrative action brought against Employee; provided, that in the case of clauses (ii) or (iii) Employee shall give Employer reasonable advance written notice of the information

intended to be disclosed and the reasons and circumstances surrounding such disclosure in order to permit Employer to seek a protective order or other appropriate request for confidential treatment of the applicable information.

9. COVENANT NOT TO COMPETE: Employee acknowledges that during the course of Employee's employment, Employee will acquire proprietary and confidential information about Employer's business, including, but not limited to the REIT, Employer's and the REIT's investors, its customers, vendors, prices, sales strategies and other information, some of which may be of independent economic value, is not available to the public, and is protected by specific efforts of Employer. Such proprietary and confidential information may be regarded by Employer as trade secrets. Employee further acknowledges that he will be responsible for contacting and developing relationships with Employer's customers. In order to protect Employer's critical interest in these relationships and information, Employee covenants as follows:

9.1 Employee agrees that upon a termination for Cause or a resignation but not a Resignation for Good Reason, for a period of twelve months following the last day of Employee's employment, Employee will not compete with Employer by engaging, in a competitive capacity, in any activity competitive with Employer, within a 30-mile radius of any of Employer's offices at which Employee worked within the one-year period preceding the last day of his employment.

9.2 Employee agrees that competition shall include engaging, in a competitive capacity, in competitive activity, either as an individual, as a partner, as a joint venturer with any other person or entity, or as an employee, agent, representative, or contractor of any other person or entity, or otherwise being associated in a competitive capacity with any entity or person who or which competes with Employer

9.3 If any provision of this paragraph 9 relating to the time period or scope of the restrictive covenants shall be declared by a court of competent jurisdiction to exceed the maximum time period or scope, as applicable, that such court deems reasonable and enforceable, said time period or scope shall be deemed to be, and thereafter shall become, the maximum time period or greatest scope that such court deems reasonable and enforceable and this Agreement shall automatically be considered to have been amended and revised to reflect such determination.

9.4 Employer and Employee have examined this Covenant Not to Compete and agree that the restraint imposed upon Employee is reasonable in light of the legitimate interests of Employer and it is not unduly harsh upon Employee's ability to earn a livelihood.

10. COVENANT NOT TO SOLICIT OR BE EMPLOYED BY CUSTOMERS: In addition to the covenant not to compete set forth in paragraph 9 Employee further covenants and agrees as follows:

10.1 That upon a termination for Cause or a resignation but not a Resignation with Good Reason, for a period of twelve months following the last day of Employee's employment, Employee will not, compete with Employer by soliciting or accepting competing business from or providing competing services to:

10.1.1 Any person or entity who or which was a customer of Employer or investor in the REIT at any time within the twelve-month period prior to Employee's last day of employment, from whom or which Employee solicited or accepted business on behalf of Employer or to whom Employee provided services during Employee's employment with Employer; or

10.1.2 Any person or entity who or which was a customer of Employer or investor in the REIT at any time within the twelve-month period prior to Employee's last day of employment about whom or which Employee acquired proprietary and/or confidential information while employed by Employer; or

10.1.3 Any person or entity from whom or which Employee had solicited competing business during the six-month period proceeding the last day of Employee's employment, even though such solicitation had not yet been successful; or

10.2 That for a period of twelve months following the last day of Employee's employment, Employee will not become employed in a capacity competitive to Employer by any person or entity who or which was a customer of Employer at any time within the twelve-month period prior to Employee's last day of employment and to whom or which Employee provided services during his employment with Employer, for purposes of providing the same or similar services to such person or entity as Employee provided while employed by Employer.

10.2.1 Employee agrees that competition shall include engaging, in a competitive capacity, in competitive activity as defined above, either as an individual, as a partner, as a joint

venturer with any other person or entity, or as an employee, agent, representative or contractor of any other person or entity, or otherwise being associated in a competitive capacity with any person or entity who or which competes with Employer.

10.2.2 If any provision of this paragraph 10 relating to the time period or scope of the restrictive covenants shall be declared by a court of competent jurisdiction to exceed the maximum time period or scope, as applicable, that such court deems reasonable and enforceable, said time period or scope shall be deemed to be, and thereafter shall become, the maximum time period or greatest scope that such court deems reasonable and enforceable and this Agreement shall automatically be considered to have been amended and revised to reflect such determination.

10.2.3 Employer and Employee have examined in detail this restrictive covenant and agree that the restraint imposed upon Employee is reasonable in light of the legitimate interests of Employer, and it is not unduly harsh upon Employee's ability to earn a livelihood.

11. NON-SOLICITATION OF EMPLOYEES: Employee agrees that during his employment with Employer and for a period of eighteen months following the last day of Employee's employment, Employee shall not, directly, or indirectly through another, solicit or induce, or attempt to solicit or induce, any employee of Employer to leave Employer to go to work for, or to consult or contract work with a competitor of Employer, or recommend to a competitor of Employer the hiring of any individual employed by Employer on Employee's last day of employment or at any time during the six-month period immediately prior thereto.

12. OPPORTUNITY FOR REVIEW: Employee understands the nature of the burdens imposed by the restrictive covenants contained in this Agreement. Employee acknowledges that he is entering into this Agreement on his own volition, and that he has been given the opportunity to have this Agreement reviewed by the person(s) of his choosing. Employee represents that upon careful review, he knows of no reason why any restrictive covenant contained in this Agreement is not reasonable and enforceable.

13. RESTRICTIVE COVENANTS OF THE ESSENCE: The restrictive covenants upon the Employee set forth herein are of the essence of this Agreement; they shall be construed as independent of any other provision in this Agreement. The existence of any claim or cause of action of the Employee against the Employer, whether predicated on this Agreement or not, shall not constitute a defense to the enforcement by the Employer of the restrictive covenants contained herein.

14. INJUNCTIVE RELIEF:

14.1 Employer and Employee agree that irreparable injury will result to Employer in the event Employee violates any restrictive covenant or affirmative obligation contained in paragraphs 8-11 of this Agreement, and Employee acknowledges that the remedies at law for any breach by Employee of such provisions will be inadequate and that Employer shall be entitled to injunctive relief against Employee, in addition to any other remedy that is available, at law or in equity.

14.2 Employee agrees that unless this Agreement is terminated by Employer without cause or by Employee as a Resignation with Good Reason, the non-competition, non-solicitation of

or hiring by customers, non-disclosure, and non-solicitation of employees obligations contained herein shall survive the end of the employment created herein and shall be extended by the length of time which Employee shall have been in breach of any of said provisions. Accordingly, Employee recognizes that the time periods included in the restrictive covenants contained herein shall begin on the date a court of competent jurisdiction enters an order enjoining Employee from violating such provisions unless good cause can be shown as to why the periods described should not begin at that time.

15. SUCCESSION AND ASSIGNABILITY: The obligations of Employee under paragraphs 8-11 of this Agreement shall continue after the termination of his employment and shall be binding on Employee's heirs, executors, legal representatives and assigns. Such obligations shall inure to the benefit of any successors or assigns of Employer. Employee specifically acknowledges that in the event of a sale of all or substantially all of the assets or stock of Employer, or any other event or transaction resulting in a change of ownership or control of Employer's business, the rights and obligations of the parties hereunder shall inure to the benefit of any transferee, purchaser, or future owner of Employer's business. This Agreement may be assigned only by Employer.

16. SEVERABILITY: It is the intention of the parties that the provisions of the restrictive covenants herein shall be enforceable to the fullest extent permissible under the applicable law. If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then the remainder of this Agreement shall not be affected thereby, and in lieu of each clause or provision of this Agreement which is illegal, invalid or unenforceable, there shall be added, as part of this Agreement, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and as may be legal, valid and enforceable.

17. ATTORNEYS' FEES: Employee shall pay, indemnify and hold Employer harmless against all costs and expenses (including reasonable attorneys' fees) incurred by Employer with respect to successful enforcement of its rights under this Agreement.

18. EQUITABLE RELIEF: JURISDICTION AND VENUE: Employee hereby irrevocably submits to the jurisdiction and venue of the Circuit Court of the City of Norfolk, Virginia, in any action or proceeding brought by Employer arising out of, or relating to, the restrictive covenants in paragraphs 8-11 of this Agreement. Employee hereby irrevocably agrees that any such action or proceeding shall, at Employer's option, be heard and determined in such Court. Employee agrees that a final order or judgment in any such action or proceeding shall, to the extent permitted by applicable law, be conclusive and may be enforced in other jurisdictions by suit on the order or judgment, or in any other manner provided by applicable law related to the enforcement of judgments.

19. ENTIRE AGREEMENT: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of Employee by Employer and contains all agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

20. BINDING EFFECT: This Agreement will be binding upon and inure to the benefit of each of the parties and their successors, heirs or assigns.

21. LAW GOVERNING AGREEMENT: This Agreement will be governed and construed in accordance with the laws of the Commonwealth of Virginia.

22. PARTIAL INVALIDITY: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect.

23. COUNTERPARTS: This Agreement may be executed in counterparts, together which shall constitute one and the same instrument.

IN WITNESS WHEREOF, Employer has caused this Agreement to be executed in its name and behalf by its proper officer, thereunto duly authorized, and Employee has set his hand as of the date first above written.

JON S. WHEELER

/s/ Jon S. Wheeler
Signature

Jon S. Wheeler
Printed Name

Date: 10/3/2011

WHLR MANAGEMENT COMPANY

By: /s/ Jon S. Wheeler

Its: Manager

Date 10/3/2011

Exhibit 10.3

EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made as of October 3, 2011 between WHLR Management Company ("Employer"), and Steven M. Belote ("Employee").

WHEREAS, Employer wishes to employ Employee to serve as its Chief Financial Officer ("CFO") and Employee is willing to undertake such employment in accordance with the terms of this Agreement; and

WHEREAS, Employee recognizes the importance to Employer, its affiliate, Wheeler Real Estate Investment Trust, Inc. ("the REIT") and its investors, and to the public of maintaining the high standards and quality associated with Employer's name and reputation, and is willing to maintain such high standards and quality; and

WHEREAS, Employer and the REIT are engaged in the business of acquisition, disposition, and property management of commercial real estate;

NOW, THEREFORE, it is agreed as follows:

1. TERM OF EMPLOYMENT: Subject to the provisions of this Agreement, Employer will employ Employee as its CFO beginning on October 3, 2011, and continuing for a period of one year ("Initial Term").

1.1 This Agreement shall automatically renew for successive one-year periods ("Renewal Term"), under and subject to the terms herein, unless either party gives two months written notice prior to the expiration of any Renewal Term ("Notice of Non-Renewal").

1.2 Employer, in its sole discretion, shall have the option but not the obligation of relieving Employee of actually performing any services following the giving of a Notice of Non-Renewal. Employee shall nonetheless be paid for the remainder of the notice period provided he does not violate any provision of this Agreement while receiving such compensation.

2. DUTIES: During the period of employment hereunder, Employee will devote his best efforts to the business and affairs of Employer, perform such services consistent with his position as are designated by Employer, and use his best efforts to promote the interest of Employer. Employee's duties shall include (a) being responsible for the maintenance of Employer's accounting books, records, and funds, (b) preparing accurate financial statements for Employer, (c) advising the President and Board of Directors regarding the financial condition of Employer, and (d) being responsible for maintaining proper internal controls over the assets of Employer. Employee pledges that during the term of this Agreement, Employee shall not, directly or indirectly, engage in any other business that could reasonably be expected to detract from Employee's ability to apply his best efforts to the performance of his duties hereunder but may perform other duties in support of and be compensated by one or more companies affiliated with Employer when reasonably requested to do so. Employee further agrees to comply with all rules, regulations and policies established or issued by and made applicable to Employer's employees generally.

3. COMPENSATION: Employer will pay Employee a regular base salary commensurate with his position and performance, such salary to be determined from time to time by Employer, but to be not less than $10,000 per month upon the initiation of this Agreement. Such salary will

be payable in periodic installments on the same basis as that of other employees of Employer. If the REIT completes an IPO during Employee's employment, then on the first day of the month following completion of such IPO, Employee's base salary shall increase to not less than $12,000 per month, with annual reviews thereafter. At the time of an annual review, a possible increase in salary will be considered, but an increase shall not automatically occur.

3.1 Employer and Employee shall confer from time to time regarding reimbursements for cell phone, mileage, toll and travel expenses, including travel to enhance Employee's skills and/or visibility in Employer's industry, incurred by Employee in performance of his duties hereunder.

4. BENEFITS: Employee will participate in the various employee benefits provided for similarly situated employees of Employer and/or its affiliates, provided however that he shall not be provided group health care at the outset of this Agreement and until such time as may be approved by Employer. Employer reserves the right to modify, eliminate, or add to any of such benefits as it deems appropriate.

5. DEATH: If Employee should die during the Initial Term or any Renewal Term of this Agreement, Employer will, in lieu of payments due under other provisions of this Agreement, pay to Employee's estate for a period of two months, Employee's regular base salary at the time of the Employee's death plus any previously accrued and unpaid base salary. Thereafter, Employer will have no further obligation to Employee or his estate under this Agreement.

6. DISABILITY: In the event that Employee, by reason of physical or mental incapacity is unable, with or without reasonable accommodation, to perform his duties and responsibilities under this Agreement for 60 consecutive days or longer ("Disability"), then Employer will pay to Employee his regular base salary for an eight week period following the date on which the Disability first begins. Thereafter, Employer will have no obligation to pay Employee any compensation under this Agreement.

7. TERMINATION WITHOUT CAUSE; SEVERANCE PAY:

7.1 At any point during the Initial Term or during any Renewal Term hereof, Employer may terminate Employee's employment immediately and without cause. However, if Employer terminates employee's employment pursuant to this paragraph 7.1, Employer shall pay to Employee his regular base salary payable in periodic installments on the same schedule as other executive employees of Employer (i) for 26 weeks if during the Initial Term of this Agreement or (ii) if the Initial Term has been completed, a period of eight weeks following the date on which employment is terminated ("Severance Pay").

7.2 Employee agrees that while receiving Severance Pay, in the event he violates any provision of this Agreement, he will forfeit all Severance Pay from the first date of payment and shall be obligated to return all such pay within ten days of demand for return of such pay by Employer.

8. TERMINATION FOR CAUSE: The Employee's employment may be terminated at any time by Employer for "Cause." As used in this Agreement, the term Cause means (i) disloyalty

or dishonesty towards Employer; (ii) gross or intentional neglect in performance of duties; (iii) incompetence or willful misconduct in performance of duties; (iv) substance abuse affecting Employee's performance of duties; (v) discrimination or harassment of other employees; (vi) willful violation of any law, rule, or regulation (other than minor traffic violations) related to Employee's duties; (vii) material breach of any provision of this Agreement; or (viii) any other act or omission which harms or may reasonably be expected to harm the reputation and/or business interests of Employer. If the employment is so terminated, Employee will be entitled to receive any base salary earned and employee benefits accrued as of the date of such termination, but Employer will have no further obligation to Employee hereunder from and after such date.

9. TERMINATION BY EMPLOYEE:

9.1 Employee may resign from the employment of Employer at any time upon 60 days prior written notice. Upon such resignation, Employee shall have no rights to any further compensation or benefits after the 60-day notice period has expired. Employer reserves the option but not the obligation to relieve Employee from performance of work during all of or any portion of this period, but absent mutual agreement or subsequent breach hereof, Employer shall be obligated to pay Employee the Employee's regular base salary for the entire 60-day notice period.

9.2 Employee may resign from Employer without giving 60 days notice but still be entitled 60 days pay if such resignation is a Resignation with Good Reason. A Resignation with Good Reason may occur if Employee is not compensated as provided herein for a period

exceeding four weeks or is otherwise materially and adversely affected by Employer's breach hereof as to the terms and conditions of his employment. Provided further, that a Resignation with Good Reason along with the reasons on which it is based shall be given to Employer, which shall then have ten calendar days to address and cure such reasons.

10. NONDISCLOSURE:

10.1.1 Employee agrees to hold and safeguard any information about Employer, the REIT and or their shareholders and investors gained by Employee during the course of Employee's employment. Employee shall not, without the prior written consent of Employer, disclose or make available to anyone for use outside Employer's organization at any time, either during his employment or subsequent to any termination of his employment, however such termination is effected, whether by Employee or Employer, with or without cause or Good Reason, or expiration or nonrenewal of this Agreement, any information about Employer or its shareholders or investors, whether or not such information was developed by Employee, except as required in the performance of Employee's duties for Employer or required by law.

10.2 Employee understands and agrees that any information about Employer is the property of Employer and is essential to the protection of Employer's goodwill and to the maintenance of Employer's competitive position and accordingly should be kept secret. Such information shall include, but not be limited to, information containing Employer's and the REIT's business plans, investment strategies, investors, and prospective investors, key elements of specific properties, computer programs, system documentation, manuals, ideas, or any other records or information belonging to Employer, the REIT or relating to Employer's business.

10.3 Notwithstanding anything in paragraph 10.1 or paragraph 10.2 to the contrary, Employer agrees that the obligations of Employee set forth in paragraphs 10.1 and 10.2 shall not apply to any information which (i) becomes known generally to the public through no fault of the Employee; (ii) is required by applicable law, legal process or any order or mandate of a court or other governmental authority to be disclosed; or (iii) is reasonably believed by Employee, based upon the advice of legal counsel, to be required to be disclosed in defense of a lawsuit or other legal or administrative action brought against Employee; provided, that in the case of clauses (ii) or (iii) Employee shall give Employer reasonable advance written notice of the information intended to be disclosed and the reasons and circumstances surrounding such disclosure in order to permit Employer to seek a protective order or other appropriate request for confidential treatment of the applicable information.

11. COVENANT NOT TO COMPETE: Employee acknowledges that during the course of Employee's employment, Employee will acquire proprietary and confidential information about Employer's business, including, but not limited to the REIT, Employer's and the REIT's investors, its customers, vendors, prices, sales strategies and other information, some of which may be of independent economic value, is not available to the public, and is protected by specific efforts of Employer. Such proprietary and confidential information may be regarded by Employer as trade secrets. Employee further acknowledges that he will be responsible for contacting and developing relationships with Employer's customers. In order to protect Employer's critical interest in these relationships and information, Employee covenants as follows:

11.1 Employee agrees that upon a termination for Cause or a resignation but not a Resignation for Good Reason, for a period of twelve months following the last day of Employee's employment, Employee will not compete with Employer by engaging, in a competitive capacity, in any activity competitive with Employer, within a 30-mile radius of any of Employer's offices at which Employee worked within the one-year period preceding the last day of his employment.

11.2 Employee agrees that competition shall include engaging, in a competitive capacity, in competitive activity, either as an individual, as a partner, as a joint venturer with any other person or entity, or as an employee, agent, representative, or contractor of any other person or entity, or otherwise being associated in a competitive capacity with any entity or person who or which competes with Employer

11.3 If any provision of this paragraph 11 relating to the time period or scope of the restrictive covenants shall be declared by a court of competent jurisdiction to exceed the maximum time period or scope, as applicable, that such court deems reasonable and enforceable, said time period or scope shall be deemed to be, and thereafter shall become, the maximum time period or greatest scope that such court deems reasonable and enforceable and this Agreement shall automatically be considered to have been amended and revised to reflect such determination.

11.4 Employer and Employee have examined this Covenant Not to Compete and agree that the restraint imposed upon Employee is reasonable in light of the legitimate interests of Employer and it is not unduly harsh upon Employee's ability to earn a livelihood.

12. COVENANT NOT TO SOLICIT OR BE EMPLOYED BY CUSTOMERS: In addition to the covenant not to compete set forth in paragraph 11 Employee further covenants and agrees as follows:

12.1 That upon a termination for Cause or a resignation but not a Resignation with Good Reason, for a period of twelve months following the last day of Employee's employment, Employee will not, compete with Employer by soliciting or accepting competing business from or providing competing services to:

12.1.1 Any person or entity who or which was a customer of Employer or investor in the REIT at any time within the twelve-month period prior to Employee's last day of employment, from whom or which Employee solicited or accepted business on behalf of Employer or to whom Employee provided services during Employee's employment with Employer; or

12.1.2 Any person or entity who or which was a customer of Employer or investor in the REIT at any time within the twelve-month period prior to Employee's last day of employment about whom or which Employee acquired proprietary and/or confidential information while employed by Employer; or

12.1.3 Any person or entity from whom or which Employee had solicited competing business during the six-month period proceeding the last day of Employee's employment, even though such solicitation had not yet been successful; or

12.2 That for a period of twelve months following the last day of Employee's employment, Employee will not become employed in a capacity competitive to Employer by any person or entity who or which was a customer of Employer at any time within the twelve-month period prior to Employee's last day of employment and to whom or which Employee provided services during his employment with Employer, for purposes of providing the same or similar services to such person or entity as Employee provided while employed by Employer.

12.2.1 Employee agrees that competition shall include engaging, in a competitive capacity, in competitive activity as defined above, either as an individual, as a partner, as a joint venturer with any other person or entity, or as an employee, agent, representative or contractor of any other person or entity, or otherwise being associated in a competitive capacity with any person or entity who or which competes with Employer.

12.2.2 If any provision of this paragraph 12 relating to the time period or scope of the restrictive covenants shall be declared by a court of competent jurisdiction to exceed the maximum time period or scope, as applicable, that such court deems reasonable and enforceable, said time period or scope shall be deemed to be, and thereafter shall become, the maximum time period or greatest scope that such court deems reasonable and enforceable and this Agreement shall automatically be considered to have been amended and revised to reflect such determination.

12.2.3 Employer and Employee have examined in detail this restrictive covenant and agree that the restraint imposed upon Employee is reasonable in light of the legitimate interests of Employer, and it is not unduly harsh upon Employee's ability to earn a livelihood.

13. NON-SOLICITATION OF EMPLOYEES: Employee agrees that during his employment with Employer and for a period of eighteen months following the last day of Employee's employment, Employee shall not, directly, or indirectly through another, solicit or induce, or attempt to solicit or induce, any employee of Employer to leave Employer to go to work for, or to consult or contract work with a competitor of Employer, or recommend to a competitor of Employer the hiring of any individual employed by Employer on Employee's last day of employment or at any time during the six-month period immediately prior thereto.

14. OPPORTUNITY FOR REVIEW: Employee understands the nature of the burdens imposed by the restrictive covenants contained in this Agreement. Employee acknowledges that he is entering into this Agreement on his own volition, and that he has been given the opportunity to have this Agreement reviewed by the person(s) of his choosing. Employee represents that upon careful review, he knows of no reason why any restrictive covenant contained in this Agreement is not reasonable and enforceable.

15. RESTRICTIVE COVENANTS OF THE ESSENCE: The restrictive covenants upon the Employee set forth herein are of the essence of this Agreement; they shall be construed as independent of any other provision in this Agreement. The existence of any claim or cause of

action of the Employee against the Employer, whether predicated on this Agreement or not, shall not constitute a defense to the enforcement by the Employer of the restrictive covenants contained herein.

16. INJUNCTIVE RELIEF:

16.1 Employer and Employee agree that irreparable injury will result to Employer in the event Employee violates any restrictive covenant or affirmative obligation contained in paragraphs 10-13 of this Agreement, and Employee acknowledges that the remedies at law for any breach by Employee of such provisions will be inadequate and that Employer shall be entitled to injunctive relief against Employee, in addition to any other remedy that is available, at law or in equity.

16.2 Employee agrees that unless this Agreement is terminated by Employer without cause or by Employee as a Resignation with Good Reason, the non-competition, non-solicitation of or hiring by customers, non-disclosure, and non-solicitation of employees obligations contained herein shall survive the end of the employment created herein and shall be extended by the length of time which Employee shall have been in breach of any of said provisions. Accordingly, Employee recognizes that the time periods included in the restrictive covenants contained herein shall begin on the date a court of competent jurisdiction enters an order enjoining Employee from violating such provisions unless good cause can be shown as to why the periods described should not begin at that time.

17. SUCCESSION AND ASSIGNABILITY: The obligations of Employee under paragraphs 10-13 of this Agreement shall continue after the termination of his employment and shall be

binding on Employee's heirs, executors, legal representatives and assigns. Such obligations shall inure to the benefit of any successors or assigns of Employer. Employee specifically acknowledges that in the event of a sale of all or substantially all of the assets or stock of Employer, or any other event or transaction resulting in a change of ownership or control of Employer's business, the rights and obligations of the parties hereunder shall inure to the benefit of any transferee, purchaser, or future owner of Employer's business. This Agreement may be assigned only by Employer.

18. SEVERABILITY: It is the intention of the parties that the provisions of the restrictive covenants herein shall be enforceable to the fullest extent permissible under the applicable law. If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then the remainder of this Agreement shall not be affected thereby, and in lieu of each clause or provision of this Agreement which is illegal, invalid or unenforceable, there shall be added, as part of this Agreement, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and as may be legal, valid and enforceable.

19. ATTORNEYS' FEES: Employee shall pay, indemnify and hold Employer harmless against all costs and expenses (including reasonable attorneys' fees) incurred by Employer with respect to successful enforcement of its rights under this Agreement.

20. EQUITABLE RELIEF: JURISDICTION AND VENUE: Employee hereby irrevocably submits to the jurisdiction and venue of the Circuit Court of the City of Norfolk, Virginia, in any action or proceeding brought by Employer arising out of, or relating to, the restrictive covenants in

paragraphs 10-13 of this Agreement. Employee hereby irrevocably agrees that any such action or proceeding shall, at Employer's option, be heard and determined in such Court. Employee agrees that a final order or judgment in any such action or proceeding shall, to the extent permitted by applicable law, be conclusive and may be enforced in other jurisdictions by suit on the order or judgment, or in any other manner provided by applicable law related to the enforcement of judgments.

21. ENTIRE AGREEMENT: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of Employee by Employer and contains all agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

22. BINDING EFFECT: This Agreement will be binding upon and inure to the benefit of each of the parties and their successors, heirs or assigns.

23. LAW GOVERNING AGREEMENT: This Agreement will be governed and construed in accordance with the laws of the Commonwealth of Virginia.

24. PARTIAL INVALIDITY: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect.

25. COUNTERPARTS: This Agreement may be executed in counterparts, together which shall constitute one and the same instrument.

IN WITNESS WHEREOF, Employer has caused this Agreement to be executed in its name and behalf by its proper officer, thereunto duly authorized, and Employee has set his hand as of the date first above written.

STEVEN M. BELOTE

/s/ Steven M. Belote
Signature

Steven M. Belote
Printed Name

Date: 10-3-2011

WHLR MANAGEMENT COMPANY

By: /s/ Jon S. Wheeler

Its: Manager

Date 10-3-2011

Exhibit 10.4

EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made as of October 3, 2011 between WHLR Management Company ("Employer"), and Robin Hanisch ("Employee").

WHEREAS, Employer wishes to employ Employee to serve as its Corporate Secretary and also Director of Human Resources and Investor Relations ("Secretary and Director") and Employee is willing to undertake such employment in accordance with the terms of this Agreement; and

WHEREAS, Employee recognizes the importance to Employer, its affiliate, Wheeler Real Estate Investment Trust, Inc. ("the REIT") and its investors, and to the public of maintaining the high standards and quality associated with Employer's name and reputation, and is willing to maintain such high standards and quality; and

WHEREAS, Employer and the REIT are engaged in the business of acquisition, disposition, and property management of commercial real estate;

NOW, THEREFORE, it is agreed as follows:

1. TERM OF EMPLOYMENT: Subject to the provisions of this Agreement, Employer will employ Employee as its Secretary and Director beginning on October 3, 2011, and continuing for a period of one year ("Initial Term").

1.1 This Agreement shall automatically renew for successive one-year periods ("Renewal Term"), under and subject to the terms herein, unless either party gives two months written notice prior to the expiration of any Renewal Term ("Notice of Non-Renewal").

1.2 Employer, in its sole discretion, shall have the option but not the obligation of relieving Employee of actually performing any services following the giving of a Notice of Non- Renewal. Employee shall nonetheless be paid for the remainder of the notice period provided she does not violate any provision of this Agreement while receiving such compensation.

2. DUTIES: During the period of employment hereunder, Employee will devote her best efforts to the business and affairs of Employer, perform such services consistent with her position as are designated by Employer, and use her best efforts to promote the interest of Employer. Employee's duties shall include (a) being responsible for the maintenance of Employer's corporate records, (b) ensuring Employer's good standing with the State Corporation Commission, (c) administering Employer's human resources programs and employee records, and (d) effectively interacting with Employer's affiliated entities and investors associated therewith., Employee pledges that during the term of this Agreement, Employee shall not, directly or indirectly, engage in any other business that could reasonably be expected to detract from Employee's ability to apply her best efforts to the performance of her duties hereunder but may perform other duties in support of and be compensated by one or more companies affiliated with Employer when reasonably requested to do so. Employee further agrees to comply with all rules, regulations and policies established or issued by and made applicable to Employer's employees generally.

3. COMPENSATION: Employer will pay Employee a regular base salary commensurate with her position and performance, such salary to be determined from time to time by Employer,

but to be not less than $1,250 per month upon the initiation of this Agreement. Such salary will be payable in periodic installments on the same basis as that of other employees of Employer. Employee shall receive reimbursements for cell phone, mileage, toll and travel expenses, including travel to enhance Employee's skills and/or visibility in Employer's industry, incurred by Employee in performance of her duties hereunder.

4. BENEFITS: Employee will participate in the various employee benefits provided for similarly situated employees of Employer and/or its affiliates. Employer reserves the right to modify, eliminate, or add to any of such benefits as it deems appropriate.

5. DEATH: If Employee should die during the Initial Term or any Renewal Term of this Agreement, Employer will, in lieu of payments due under other provisions of this Agreement, pay to Employee's estate for a period of two months, Employee's regular base salary at the time of the Employee's death plus any previously accrued and unpaid base salary. Thereafter, Employer will have no further obligation to Employee or her estate under this Agreement.

6. DISABILITY: In the event that Employee, by reason of physical or mental incapacity is unable, with or without reasonable accommodation, to perform her duties and responsibilities under this Agreement for 60 consecutive days or longer ("Disability"), then Employer will pay to Employee her regular base salary for an eight week period following the date on which the Disability first begins. Thereafter, Employer will have no obligation to pay Employee any compensation under this Agreement.

7. TERMINATION WITHOUT CAUSE; SEVERANCE PAY:

7.1 At any point during the Initial Term or during any Renewal Term hereof, Employer may terminate Employee's employment immediately and without cause. However, if Employer terminates employee's employment pursuant to this paragraph 7.1, Employer shall pay to Employee her regular base salary payable in periodic installments on the same schedule as other executive employees of Employer (i) for 26 weeks if during the Initial Term of this Agreement or (ii) if the Initial Term has been completed, a period of eight weeks following the date on which employment is terminated ("Severance Pay").

7.2 Employee agrees that while receiving Severance Pay, in the event she violates any provision of this Agreement, she will forfeit all Severance Pay from the first date of payment and shall be obligated to return all such pay within ten days of demand for return of such pay by Employer.

8. TERMINATION FOR CAUSE: The Employee's employment may be terminated at any time by Employer for "Cause." As used in this Agreement, the term Cause means (i) disloyalty or dishonesty towards Employer; (ii) gross or intentional neglect in performance of duties; (iii) incompetence or willful misconduct in performance of duties; (iv) substance abuse affecting Employee's performance of duties; (v) discrimination or harassment of other employees; (vi) willful violation of any law, rule, or regulation (other than minor traffic violations) related to Employee's duties; (vii) material breach of any provision of this Agreement; or (viii) any other act or omission which harms or may reasonably be expected to harm the reputation and/or business interests of Employer. If the employment is so terminated, Employee will be entitled to receive any base salary earned and employee benefits accrued as of the date of such termination, but Employer will have no further obligation to Employee hereunder from and after such date.

9. TERMINATION BY EMPLOYEE:

9.1 Employee may resign from the employment of Employer at any time upon 60 days prior written notice. Upon such resignation, Employee shall have no rights to any further compensation or benefits after the 60-day notice period has expired. Employer reserves the option but not the obligation to relieve Employee from performance of work during all of or any portion of this period, but absent mutual agreement or subsequent breach hereof, Employer shall be obligated to pay Employee the Employee's regular base salary for the entire 60-day notice period.

9.2 Employee may resign from Employer without giving 60 days notice but still be entitled 60 days pay if such resignation is a Resignation with Good Reason. A Resignation with Good Reason may occur if Employee is not compensated as provided herein for a period exceeding four weeks or is otherwise materially and adversely affected by Employer's breach hereof as to the terms and conditions of her employment. Provided further, that a Resignation with Good Reason along with the reasons on which it is based shall be given to Employer, which shall then have ten calendar days to address and cure such reasons.

10. NONDISCLOSURE:

10.1.1 Employee agrees to hold and safeguard any information about Employer, the REIT and or their shareholders and investors gained by Employee during the course of Employee's employment. Employee shall not, without the prior written consent of Employer, disclose or make available to anyone for use outside Employer's organization at any time, either during her employment or subsequent to any termination of her employment, however such termination is effected, whether by Employee or Employer, with or without cause or Good Reason, or expiration or nonrenewal of this Agreement, any information about Employer or its shareholders or investors, whether or not such information was developed by Employee, except as required in the performance of Employee's duties for Employer or required by law.

10.2 Employee understands and agrees that any information about Employer is the property of Employer and is essential to the protection of Employer's goodwill and to the maintenance of Employer's competitive position and accordingly should be kept secret. Such information shall include, but not be limited to, information containing Employer's and the REIT's business plans, investment strategies, investors, and prospective investors, key elements of specific properties, computer programs, system documentation, manuals, ideas, or any other records or information belonging to Employer, the REIT or relating to Employer's business.

10.3 Notwithstanding anything in paragraph 10.1 or paragraph 10.2 to the contrary, Employer agrees that the obligations of Employee set forth in paragraphs 10.1 and 10.2 shall not apply to any information which (i) becomes known generally to the public through no fault of the

Employee; (ii) is required by applicable law, legal process or any order or mandate of a court or other governmental authority to be disclosed; or (iii) is reasonably believed by Employee, based upon the advice of legal counsel, to be required to be disclosed in defense of a lawsuit or other legal or administrative action brought against Employee; provided, that in the case of clauses (ii) or (iii) Employee shall give Employer reasonable advance written notice of the information intended to be disclosed and the reasons and circumstances surrounding such disclosure in order to permit Employer to seek a protective order or other appropriate request for confidential treatment of the applicable information.

11. COVENANT NOT TO COMPETE: Employee acknowledges that during the course of Employee's employment, Employee will acquire proprietary and confidential information about Employer's business, including, but not limited to the REIT, Employer's and the REIT's investors, its customers, vendors, prices, sales strategies and other information, some of which may be of independent economic value, is not available to the public, and is protected by specific efforts of Employer. Such proprietary and confidential information may be regarded by Employer as trade secrets. Employee further acknowledges that she will be responsible for contacting and developing relationships with Employer's customers. In order to protect Employer's critical interest in these relationships and information, Employee covenants as follows:

11.1 Employee agrees that upon a termination for Cause or a resignation but not a Resignation for Good Reason, for a period of twelve months following the last day of Employee's employment, Employee will not compete with Employer by engaging, in a competitive capacity, in any activity competitive with Employer, within a 30-mile radius of any of Employer's offices at which Employee worked within the one-year period preceding the last day of her employment.

11.2 Employee agrees that competition shall include engaging, in a competitive capacity, in competitive activity, either as an individual, as a partner, as a joint venturer with any other person or entity, or as an employee, agent, representative, or contractor of any other person or entity, or otherwise being associated in a competitive capacity with any entity or person who or which competes with Employer

11.3 If any provision of this paragraph 11 relating to the time period or scope of the restrictive covenants shall be declared by a court of competent jurisdiction to exceed the maximum time period or scope, as applicable, that such court deems reasonable and enforceable, said time period or scope shall be deemed to be, and thereafter shall become, the maximum time period or greatest scope that such court deems reasonable and enforceable and this Agreement shall automatically be considered to have been amended and revised to reflect such determination.

11.4 Employer and Employee have examined this Covenant Not to Compete and agree that the restraint imposed upon Employee is reasonable in light of the legitimate interests of Employer and it is not unduly harsh upon Employee's ability to earn a livelihood.

12. COVENANT NOT TO SOLICIT OR BE EMPLOYED BY CUSTOMERS: In addition to the covenant not to compete set forth in paragraph 11 Employee farther covenants and agrees as follows:

12.1 That upon a termination for Cause or a resignation but not a Resignation with Good Reason, for a period of twelve months following the last day of Employee's employment, Employee will not, compete with Employer by soliciting or accepting competing business from or providing competing services to:

12.1.1 Any person or entity who or which was a customer of Employer or investor in the REIT at any time within the twelve-month period prior to Employee's last day of employment, from whom or which Employee solicited or accepted business on behalf of Employer or to whom Employee provided services during Employee's employment with Employer; or

12.1.2 Any person or entity who or which was a customer of Employer or investor in the REIT at any time within the twelve-month period prior to Employee's last day of employment about whom or which Employee acquired proprietary and/or confidential information while employed by Employer; or

12.1.3 Any person or entity from whom or which Employee had solicited competing business during the six-month period proceeding the last day of Employee's employment, even though such solicitation had not yet been successful; or

12.2 That for a period of twelve months following the last day of Employee's employment, Employee will not become employed in a capacity competitive to Employer by any person or entity who or which was a customer of Employer at any time within the twelve-month

period prior to Employee's last day of employment and to whom or which Employee provided services during her employment with Employer, for purposes of providing the same or similar services to such person or entity as Employee provided while employed by Employer.

12.2.1 Employee agrees that competition shall include engaging, in a competitive capacity, in competitive activity as defined above, either as an individual, as a partner, as a joint venturer with any other person or entity, or as an employee, agent, representative or contractor of any other person or entity, or otherwise being associated in a competitive capacity with any person or entity who or which competes with Employer.

12.2.2 If any provision of this paragraph 12 relating to the time period or scope of the restrictive covenants shall be declared by a court of competent jurisdiction to exceed the maximum time period or scope, as applicable, that such court deems reasonable and enforceable, said time period or scope shall be deemed to be, and thereafter shall become, the maximum time period or greatest scope that such court deems reasonable and enforceable and this Agreement shall automatically be considered to have been amended and revised to reflect such determination.

12.2.3 Employer and Employee have examined in detail this restrictive covenant and agree that the restraint imposed upon Employee is reasonable in light of the legitimate interests of Employer, and it is not unduly harsh upon Employee's ability to earn a livelihood.

13. NON-SOLICITATION OF EMPLOYEES: Employee agrees that during her employment with Employer and for a period of eighteen months following the last day of Employee's

employment, Employee shall not, directly, or indirectly through another, solicit or induce, or attempt to solicit or induce, any employee of Employer to leave Employer to go to work for, or to consult or contract work with a competitor of Employer, or recommend to a competitor of Employer the hiring of any individual employed by Employer on Employee's last day of employment or at any time during the six-month period immediately prior thereto.

14. OPPORTUNITY FOR REVIEW: Employee understands the nature of the burdens imposed by the restrictive covenants contained in this Agreement. Employee acknowledges that she is entering into this Agreement on her own volition, and that she has been given the opportunity to have this Agreement reviewed by the person(s) of her choosing. Employee represents that upon careful review, she knows of no reason why any restrictive covenant contained in this Agreement is not reasonable and enforceable.

15. RESTRICTIVE COVENANTS OF THE ESSENCE: The restrictive covenants upon the Employee set forth herein are of the essence of this Agreement; they shall be construed as independent of any other provision in this Agreement. The existence of any claim or cause of action of the Employee against the Employer, whether predicated on this Agreement or not, shall not constitute a defense to the enforcement by the Employer of the restrictive covenants contained herein.

16. INJUNCTIVE RELIEF:

16.1 Employer and Employee agree that irreparable injury will result to Employer in the event Employee violates any restrictive covenant or affirmative obligation contained in paragraphs

10-13 of this Agreement, and Employee acknowledges that the remedies at law for any breach by Employee of such provisions will be inadequate and that Employer shall be entitled to injunctive relief against Employee, in addition to any other remedy that is available, at law or in equity.

16.2 Employee agrees that unless this Agreement is terminated by Employer without cause or by Employee as a Resignation with Good Reason, the non-competition, non-solicitation of or hiring by customers, non-disclosure, and non-solicitation of employees obligations contained herein shall survive the end of the employment created herein and shall be extended by the length of time which Employee shall have been in breach of any of said provisions. Accordingly, Employee recognizes that the time periods included in the restrictive covenants contained herein shall begin on the date a court of competent jurisdiction enters an order enjoining Employee from violating such provisions unless good cause can be shown as to why the periods described should not begin at that time.

17. SUCCESSION AND ASSIGNABILITY: The obligations of Employee under paragraphs 10-13 of this Agreement shall continue after the termination of her employment and shall be binding on Employee's heirs, executors, legal representatives and assigns. Such obligations shall inure to the benefit of any successors or assigns of Employer. Employee specifically acknowledges that in the event of a sale of all or substantially all of the assets or stock of Employer, or any other event or transaction resulting in a change of ownership or control of Employer's business, the rights and obligations of the parties hereunder shall inure to the benefit of any transferee, purchaser, or future owner of Employer's business. This Agreement may be assigned only by Employer.

18. SEVERABILITY: It is the intention of the parties that the provisions of the restrictive covenants herein shall be enforceable to the fullest extent permissible under the applicable law. If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then the remainder of this Agreement shall not be affected thereby, and in lieu of each clause or provision of this Agreement which is illegal, invalid or unenforceable, there shall be added, as part of this Agreement, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and as may be legal, valid and enforceable.

19. ATTORNEYS' FEES: Employee shall pay, indemnify and hold Employer harmless against all costs and expenses (including reasonable attorneys' fees) incurred by Employer with respect to successful enforcement of its rights under this Agreement.

20. EQUITABLE RELIEF: JURISDICTION AND VENUE: Employee hereby irrevocably submits to the jurisdiction and venue of the Circuit Court of the City of Norfolk, Virginia, in any action or proceeding brought by Employer arising out of, or relating to, the restrictive covenants in paragraphs 10-13 of this Agreement. Employee hereby irrevocably agrees that any such action or proceeding shall, at Employer's option, be heard and determined in such Court. Employee agrees that a final order or judgment in any such action or proceeding shall, to the extent permitted by applicable law, be conclusive and may be enforced in other jurisdictions by suit on the order or judgment, or in any other manner provided by applicable law related to the enforcement of judgments.

21. ENTIRE AGREEMENT: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of Employee by Employer and contains all agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

22. BINDING EFFECT: This Agreement will be binding upon and inure to the benefit of each of the parties and their successors, heirs or assigns.

23. LAW GOVERNING AGREEMENT: This Agreement will be governed and construed in accordance with the laws of the Commonwealth of Virginia.

24. PARTIAL INVALIDITY: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect.

25. COUNTERPARTS: This Agreement may be executed in counterparts, together which shall constitute one and the same instrument.

IN WITNESS WHEREOF, Employer has caused this Agreement to be executed in its name and behalf by its proper officer, thereunto duly authorized, and Employee has set her hand as of the date first above written.

ROBIN HANISCH	WHLR MANAGEMENT COMPANY
/s/ Robin Hanisch	By: /s/ Jon S. Wheeler
Signature	
Robin Hanisch	Its: Manager
Printed Name	
Date: 10-3-2011	Date 10-3-2011

Exhibit 10.5

MANAGEMENT AGREEMENT

among

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

WHEELER REAL ESTATE INVESTMENT TRUST, L.P.

and

WHLR MANAGEMENT, LLC

Dated as of November 16, 2012

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THIS MANAGEMENT AGREEMENT dated as of November 16, 2012, among Wheeler Real Estate Investment Trust, Inc., a Maryland corporation (the "Trust"), Wheeler Real Estate Investment Trust, L.P., a Virginia limited partnership (the "Operating Partnership"), and WHLR Management, LLC, a Virginia limited liability company (the "Manager").

Section 1. Definitions.

(a) The following terms shall have the respective meanings set forth below in this Section 1(a):

"Above-Market Rates" has the meaning set forth in Section 11(b).

"Acquisition Expenses" means any and all expenses incurred by the Company, the Manager or any of their respective Affiliates in connection with the selection, evaluation, acquisition, origination, making or development of any Investment, whether or not acquired, including legal fees and expenses, travel and communications expenses, property inspection expenses, third party brokerage or finder's fees, costs of appraisals, nonrefundable option payments on property not acquired, accounting fees and expenses, title insurance premiums and expenses, survey expenses, closing costs and the costs of performing due diligence.

"Affiliate" means, with respect to a specified Person, (i) any Person directly or indirectly controlling, controlled by, or under common control with such specified Person, (ii) any general partner of such specified Person, and (iii) any Person for which such specified Person acts as a general partner. For purposes of this definition, the terms "controlled", "controlled by", or "under common control with" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise.

"Agreement" means this Management Agreement, as amended or supplemented from time to time.

"Asset Management Fee" means the fee payable to the Manager pursuant to Section 7(h).

"Automatic Renewal Term" has the meaning set forth in Section 11(a).

"Bankruptcy Event" means, with respect to any Person, (i) the filing by such Person of a voluntary petition seeking liquidation, reorganization, arrangement or readjustment, in any form, of its debts under Title 11 of the United States Code or any other U.S. federal or state or foreign insolvency law, or such Person's filing an answer consenting to or acquiescing in any such petition, (ii) the making by such Person of any assignment for the benefit of its creditors, (iii) the expiration of 60 days after the filing of an involuntary petition under Title 11 of the Unites States Code, an application for the appointment of a receiver for a material portion of the assets of such Person, or an involuntary petition seeking liquidation, reorganization, arrangement or readjustment of its debts under any other U.S., federal or state or foreign insolvency law, provided that the same shall not have been vacated, set aside or stayed within such 60-day

period, or (iv) the entry against such Person of a final and non-appealable order for relief under any bankruptcy, insolvency or similar law now or hereinafter in effect.

"Board" means the board of directors of the Trust. In every instance herein requiring approval of the Board or referring to policies or directions of the Board, for purposes of this Agreement, the Board shall be deemed to include any duly appointed and constituted committee of the Board with respect to each and every act that under the Governing Instruments or applicable law may be taken with the approval of a duly appointed and constituted committee of the Board, and references herein to the Board shall be deemed to include references to each such committee.

"Business Day" means any day except a Saturday, a Sunday or a day on which banking institutions in New York, New York or in Virginia Beach, Virginia, are not required to be open.

"Cause Termination Notice" has the meaning set forth in Section 13(a).

"Change of Control" of an entity means a change in the direct or indirect (i) beneficial ownership of more than 50% of the combined voting power of such entity's then outstanding equity interests, or (ii) power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or otherwise.

"Claim" has the meaning set forth in Section 9(c).

"Common Stock" means the common stock of the Trust.

"Closing Date" means the date of closing of the Initial Public Offering.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute thereto, Reference to any provision of the Code shall mean such provision as in effect from time to time, as the same may be amended, and any successor provision thereto, as interpreted by any applicable regulations as in effect from time to time.

"Company" means, collectively, the Trust and the Operating Partnership.

"Company Entities" means, collectively, the Trust, the Operating Partnership and each of their respective subsidiaries, and the respective subsidiaries of such subsidiaries.

"Company Indemnified Party" has the meaning set forth in Section 9(b).

"Competitive Real Estate Commission" means a real estate or brokerage commission for the purchase or sale of an asset which is reasonable, customary and competitive in light of the size, type and location of the asset.

"Conduct Policies" has the meaning set forth in Section 3.

"Confidential Information" has the meaning set forth in Section 6.

"Contract Sales Price" means the total consideration received by any of the Company Entities for the sale of an Investment, which total consideration shall include the amount of cash received, the fair market value of any property received and the amount of debt assumed by the purchaser and of which a Company Entity is relieved of responsibility upon such disposition.

"Director" means a member of the Board.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fees Accrued Upon Termination" means the amounts payable to the Manager or its assignees equal to the aggregate of any earned but unpaid compensation and expense reimbursements accrued as of the date of termination if this Agreement is terminated (i) pursuant to a Change of Control of the Trust, (ii) pursuant to a Termination Without Cause, (iii) by the Manager pursuant to Section 13(b), (iv) based on a liquidation by the Company of all its assets, or (v) upon a termination by the Manager pursuant to Section 11(d).

"Financing Transaction" means any transaction with respect to any Investment involving any of the Company Entities' incurring any mortgage or other indebtedness, including the entering into any line of credit, transaction involving the creation of any commercial mortgage-backed security and mezzanine financing.

"GAAP" means United States generally accepted accounting principles, consistently applied.

"General and Administrative Expenses Fee" means the fee payable to the Manager or its assignees pursuant to Section 8(h)(ii) in connection with the administration of the day-to-day operations and the performance and supervision of the performance of such other administrative functions necessary to the management of the Company.

"Governing Instruments" means, with regard to any entity, the articles of incorporation or certificate of incorporation and by-laws in the case of a corporation. the partnership agreement in the case of a general or limited partnership, the certificate of formation and operating or limited liability company agreement in the case of a limited liability company, the declaration of trust or other comparable trust instrument in the case of a trust, or similar governing documents in the case of another type of entity, in each case, as the same may be amended from time to time.

"Indemnified Party" has the meaning set forth in Section 9(b).

"Independent Director" means a member of the Board who is "independent" in accordance with the Trust's Governing Instruments and the rules of the Nasdaq Capital Market or such other securities exchange on which the shares of Common Stock are listed.

"Initial Public Offering" means the Trust's sale of Common Stock to the public through one or more underwriters pursuant to the Registration Statement.

"Initial Term" has the meaning set forth in Section 11(a).

"Investment" means any investment by any Company Entity, directly or indirectly, in Real Estate Assets, Real Estate Related Loans or any other asset.

"Investment Company Act" means the Investment Company Act of 1940, as amended.

"Investment Guidelines" means the investment guidelines approved by the Board, a copy of which is attached hereto as Exhibit A, as the same may amended, restated, supplemented or waived pursuant to the approval of a majority of the entire Board (which must include a majority of the Independent Directors).

"Investment Transaction" means any purchase, acquisition, exchange, sale or disposition, merger or interest exchange that results in the acquisition or disposition of, or other transaction involving, an Investment.

"Joint Venture" means the joint venture or partnership or other similar arrangement (other than between or among any Company Entity) in which a Company Entity is a co-venturer, member, partner or other equity holder, which are established to own Investments.

"Losses" has the meaning set forth in Section 9(a).

"Manager" has the meaning set forth at the head of this Agreement and shall include any successor in interest thereto.

"Manager Change of Control" means a Change of Control of the Manager; provided, however, that no Manager Change of Control shall be deemed to result from (i) any public offering of equity interests of the Manager, or (ii) any assignment of this Agreement by the Manager as permitted hereby and in accordance with the terms hereof.

"Manager indemnified Party" has the meaning set forth in Section 9(a).

"Manager Permitted Disclosure Parties" has the meaning set forth in Section 6(a).

"NASDAQ" means the NASDAQ Stock Market.

"Notice of Proposal to Negotiate" has the meaning set forth in Section 11(c).

"Operating Partnership" has the meaning at the head of this Agreement.

"Person" or "person" means any natural person, corporation, partnership, association, limited liability company, estate, trust or joint venture, any federal, state, county or municipal government or any bureau, department or agency thereof, or any other legal entity.

"Real Estate Assets" means any investments by any Company Entity in unimproved or improved Real Property (including fee or leasehold interests, options and leases), directly, through one or more subsidiaries or through a Joint Venture.

"Real Estate Related Loans" means any investments in mortgage loans and other types of real estate related debt obligations, including mezzanine loans, bridge loans, convertible mortgages, wraparound mortgage loans, construction mortgage loans, loans on leasehold interests and participations in such loans, by any Company Entity, directly, through one or more subsidiaries or through a Joint Venture.

"Real Property" means real property owned from time to time by any Company Entity, directly, through one or more subsidiaries or through a Joint Venture, which consists of (i) land only, (ii) land, including the buildings located thereon, (iii) buildings only, or (iv) such Investments the Board or the Manager designates as Real Property to the extent such Investments could be classified as Real Property.

"Registration Statement" means the Trust's Registration Statement on Form S-11 (Registration No. 333-177262), as amended from time to time, pursuant to which it is conducting or has conducted the Initial Public Offering.

"Regulation FD" means Regulation FD as promulgated by the SEC.

"REIT" means a "real estate investment trust" as defined under the Code.

"SEC" means the United States Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Target Assets" means the types of assets described under the section entitled "Business and Growth Strategies" in the Trust's prospectus included in the Registration Statement, subject to, and including any changes in the Investment Guidelines.

"Termination Notice" has the meaning set forth in Section 11(b).

"Termination Without Cause" has the meaning set forth in Section 11(b).

"Trust" has the meaning set forth in the head of this Agreement.

(b) As used herein, accounting terms relating to any Company Entity not defined in Section 1(a), and accounting terms partly defined in Section l(a), to the extent not defined, shall have the respective meanings given to them under GAAP.

(c) As used herein, "calendar quarters" shall mean the periods from January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31 of the applicable year.

(d) The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section references are to this Agreement unless otherwise specified.

(e) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(f) The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”

(g) A reference to any gender shall be deemed to be a reference to all genders.

Section 2. Appointment and Duties of the Manager.

(a) The Trust and the Operating Partnership hereby appoint the Manager to manage and administrate day-to-day operations of the Company, subject at all times to the further terms and conditions set forth in this Agreement and to the oversight of, and such further limitations or parameters consistent with this Agreement as may be imposed from time to time by, the Board. The Manager will use commercially reasonable efforts to perform each of its duties set forth herein, provided that funds are made available by the Company for such purposes as set forth in Section 8. The Company shall not appoint any other Person except the Manager to perform the duties and carry out the responsibilities of the Manager described herein, except as may otherwise be permitted by this Agreement and except to the extent that the Manager elects, in its sole and absolute discretion, subject to the terms of this Agreement, to cause the duties of the Manager as set forth herein to be provided by third parties.

(b) The Manager, in its capacity as manager of the day-to-day operations of the Company, at all times will be subject to the oversight and direction of the Board, will act in a manner that is compliant with the provisions of the Governing Instruments of the Company, will use commercially reasonable efforts to present to the Company potential investment opportunities and will perform its duties hereunder, including managing the Company’s business affairs in conformity with the Investment Guidelines and other policies that are determined and adopted by the Board. The Trust, the Operating Partnership and the Manager hereby acknowledge the adoption by the Board of the Investment Guidelines, including the Company’s investment strategy with respect to Target Assets. The Trust, the Operating Partnership and the Manager hereby acknowledge and agree that, during the term of this Agreement, any proposed changes to the Company’s investment strategy that would modify or expand the Target Assets shall require a change in, or supplement to, the Investment Guidelines. The Company shall notify the Manager promptly of any amended, restated, supplemented or waived Investment Guidelines, including any modification or revocation of the Manager’s authority set forth in the Investment Guidelines; provided, however, that such modification or revocation shall not be applicable to investment transactions to which any Company Entity has committed prior to the date of receipt by the Manager of such notification.

(c) The Manager will be responsible for the day-to-day operations of the Company and will perform (or cause to be performed), subject to the Board's oversight, such services and activities relating to the day-to-day operations of the Company as may be appropriate, which may include:

(i) (A) proposing modifications to the Investment Guidelines to the Board, (B) periodically reviewing the Company's Investment portfolio for compliance with the Investment Guidelines and reporting its findings to the Board, (C) periodically reviewing and reporting to the Board regarding the diversification of the Company's Investment portfolio and the financing strategies, and (D) conducting or overseeing the provision of the services and activities set forth in this Section 2;

(ii) investigating, analyzing, selecting, conducting due diligence with respect to, negotiating the terms and conditions of (including negotiating the forms of definitive agreements), arranging financing for and recommending to the Board (in accordance with procedures adopted by the Board) Investment Transactions consistent with the Investment Guidelines. If the Manager propose that any Company Entity enter into any transaction in which the Manager, any Affiliate of the Manager or any of the Manager's directors or officers has a direct or indirect interest, the Manager shall not proceed with such transaction unless and until approved by a majority of the Board not otherwise interested in such transaction, including a majority of the Independent Directors;

(iii) with respect to prospective Investment Transactions and Financing Transactions, conducting negotiations (including negotiation of definitive agreements) with sellers, purchasers, prospective merger partners, lenders and other financing sources and brokers and, if applicable, their respective agents and representatives and closing Investment Transactions and Financing Transactions on behalf of the Company;

(iv) effecting any private placement of interests in the Operating Partnership, tenancy-in-common or other interests in Investments as may be approved by the Board;

(v) delivering to, or maintaining on behalf of, the Company copies of all appraisals obtained in connection with the Investments in any Real Estate Assets as may be required to be obtained by the Board;

(vi) negotiating and causing the Company to enter into, within the discretionary limits and authority granted by the Board, repurchase agreements, interest rate swap agreements, agreements relating to borrowings under programs established by the U.S. Government and other agreements and instruments required to conduct the business of the Company;

(vii) engaging and supervising, at the expense of the Company, independent contractors that provide investment banking, securities brokerage, mortgage brokerage, real estate brokerage services, other financial services, investor relations services, due diligence services, underwriting review services, legal and accounting services, and all other services (including transfer agent and registrar services) as may be required relating

to the Company's operations, Investments, Investment Transactions or Financing Transactions;

(viii) advising the Company on, preparing, negotiating and entering into, on behalf of the Company, applications and agreements relating to programs established by the U.S. Government;

(ix) coordinating and managing operations of any joint venture or co-investment interests held by the Company and conducting all matters with the joint venture or co-investment partners;

(x) providing executive and administrative personnel, office space and office services required in rendering services to the Company;

(xi) communicating on the Company's behalf with the holders of any equity or debt securities of the Trust or the Operating Partnership as required to satisfy the reporting and other requirements of any governmental body or agency or trading market and to maintain effective relations with such holders;

(xii) evaluating and recommending to the Board hedging strategies and engaging on the Company's behalf in hedging activities within the discretionary limits and authority as granted by the Board, consistent with the Company's qualification as a REIT and with the Investment Guidelines;

(xiii) counseling the Board and the Company regarding the maintenance of the Trust's qualification as a REIT and monitoring compliance with the various REIT qualification tests and other rules set out in the Code and Treasury Regulations thereunder and using commercially reasonable efforts to cause the Trust to qualify for taxation as a REIT;

(xiv) counseling the Board and the Company regarding the maintenance of the Trust's exemption from the status of an investment company required to register under the Investment Company Act, monitoring compliance with the requirements for maintaining such exemption and using commercially reasonable efforts to cause the Trust to maintain such exemption from such status;

(xv) furnishing reports and statistical and economic research to the Board regarding the activities and services performed for the Company by the Manager, including reports with respect to potential conflicts of interest involving the Manager or any of its Affiliates;

(xvi) monitoring the performance of the Investments and providing periodic reports with respect thereto to the Board, including comparative information with respect to such operating performance and budgeted or projected operating results;

(xvii) investing and reinvesting any moneys and securities of the Company within the discretionary limits and authority as granted by the Board (including investing in short-term investments pending investment in other Investments, payment of fees, costs and expenses) and advising the Company with respect to its equity and debt capitalization and its financing strategies, and the payments of dividends or distributions to the Trust's stockholders and the Operating Partnership's partners;

(xviii) causing the Company to retain qualified accountants and legal counsel, as applicable, to assist in developing appropriate accounting procedures and systems, internal controls and other compliance procedures and testing systems with respect to financial reporting obligations and compliance with the provisions of the Code applicable to REITs and, if applicable, taxable REIT subsidiaries, and to conduct quarterly compliance reviews with respect thereto;

(xix) assisting the Company in qualifying to do business in all applicable jurisdictions and to obtain and maintain all appropriate licenses;

(xx) assisting the Company in complying with all laws and regulatory requirements applicable to the Company's business activities, including preparing or causing to be prepared all financial statements required under applicable regulations and contractual undertakings and all reports and documents, if any, required under the Exchange Act, the Securities Act, state or foreign securities laws or by NASDAQ;

(xxi) assisting the Company in taking all necessary action to enable the Company to make required tax filings and reports, including soliciting information from stockholders to the extent required by the provisions of the Code applicable to REITs;

(xxii) handling and resolving all claims, disputes or controversies (including all litigation, arbitration, settlement or other proceedings or negotiations) in which the Company may be involved or to which the Company or the Company's properties or assets may be subject arising out of the Company's day-to-day operations (other than with the Manager or its Affiliates), subject to such limitations or parameters as may be imposed from time to time by the Board;

(xxiii) using commercially reasonable efforts to cause expenses incurred on behalf of the Company to be commercially reasonable or commercially customary and within any budgeted parameters or expense guidelines proposed by the Manager and approved by the Board from time to time;

(xxiv) advising the Board regarding the Company's equity and debt financings, hedging activities and joint venture arrangements including (A) advising the Board on the appropriateness of the Company's leverage ratio, levels of preferred and common equity financing, pricing of equity offerings, derivative positions and strategies and off-balance sheet arrangements, and (B) seeking to execute on the Company's behalf Financing Transactions, equity offerings, hedging transactions and joint ventures and off-balance

sheet transactions consistent with the Board's directions and the Company's financing policies as approved by the Board;

(xxv) providing portfolio management services to the Company;

(xxvi) arranging marketing materials, advertising, industry group activities (such as conference participations and industry organization memberships) and other promotional efforts designed to promote the Company's business; and

(xxvii) performing such other services as may be required from time to time for management and other activities relating to the Company's assets and business as the Board shall reasonably request or the Manager shall deem appropriate under the particular circumstances.

(d) The Manager may retain, for and on behalf, and at the sole cost and expense, of the Company, such services of the Persons referred to in Section 8 as the Manager deems necessary or advisable in connection with the management and operations of the Company and the Investments. In performing its duties under this Section 2, the Manager shall be entitled to rely reasonably on qualified experts and professionals (including accountants, Legal counsel and other professional service providers) hired by the Manager at the Company's sole cost and expense.

(e) The Manager shall refrain from any action that, in its sole judgment made in good faith, (i) is not in compliance with the Investment Guidelines, (ii) would adversely and materially affect the qualification of the Trust as a REIT or the Operating Partnership as a partnership under the Code or the Company's status as an entity excluded from investment company status under the Investment Company Act, or (iii) would conflict with or violate (A) any law, rule or regulation of any governmental body or agency having jurisdiction over any Company Entity, (B) any rule of any exchange on which the securities of the Company may be listed, or (C) any applicable Governing Instruments. The Manager may proceed with taking an action described above if further instructed to do so by the Board. If the Manager is ordered to take any action by the Board, the Manager promptly shall notify the Board if it is the Manager's judgment that such action would adversely and materially affect such qualification or status or conflict with or violate any such law, rule or regulation or Governing Instruments. Notwithstanding the foregoing, neither the Manager nor any of its Affiliates shall be liable to any Company Entity, the Board, any of the stockholders, partners, members or other holders of equity interests of any Company Entity for any act or omission by the Manager or any of its Affiliates, except as provided in Section 9.

(f) The Manager shall notify the Board of all proposed Investment Transactions before they are completed. The Manager shall seek and obtain Board approval of all Investment Transactions. If any transaction requires approval by the Independent Directors, the Manager will deliver to the Independent Directors all documents and other information reasonably required by them to evaluate properly the proposed Investment Transactions. With respect to Investment Transactions for which Board approval is not required but advance notice is required, the Manager shall provide to the Board a summary of its investment analysis with respect to the

proposed Investment Transaction. The Board may, at any time upon the giving of notice to the Manager, modify or revoke the authority set forth in this Section 2(f); provided, however, that such modification or revocation shall he effective upon receipt by the Manager and shall not be applicable to Investment Transactions to which the Manager has committed the Company prior to the date of receipt by the Manager of such notification.

(g) The Company will take all actions reasonably required to permit and enable the Manager to carry out its duties and obligations under this Agreement, including all steps reasonably necessary to allow the Manager to file any registration statement or other filing required to be made under the Securities Act, Exchange Act, NASDAQ, the Code or other applicable law, rule or regulation on behalf of the Company in a timely manner. The Company will use commercially reasonable efforts to make available to the Manager all resources, information and materials reasonably requested by the Manager to enable the Manager to satisfy its obligations hereunder, including its obligations to deliver financial statements and any other information or reports with respect to the Company.

(h) As frequently as the Manager may deem necessary or advisable, or at the direction of the Board, the Manager shall prepare (or, at the sole cost and expense of the Company, cause to be prepared) reports and other information relating to any proposed or consummated Investment.

(i) The Manager shall prepare (or, at the sole cost and expense of the Company, cause to be prepared) all reports, financial or otherwise, reasonably required by the Board in order for the Company to comply with their respective Governing Instruments or as otherwise reasonably requested by the Board, including an annual audit of the Trust's consolidated financial statements by an independent accounting firm.

(j) The Manager shall prepare (or, at the sole cost and expense to the Company, cause to be prepared) regular reports for the Board to enable the Board to review the Company's acquisitions, Investment portfolio composition and characteristics, credit quality, performance and compliance with the Investment Guidelines and policies approved by the Board.

(k) Officers, employees and agents of the Manager and its Affiliates may serve as directors, officers, agents, nominees or signatories for any Company Entity, to the extent permitted by their respective Governing Instruments, by any resolutions duly adopted by the Board, the Operating Partnership or such subsidiary. When executing documents or otherwise acting in such capacities for any Company Entity, such Persons shall indicate in what capacity they are executing on behalf of such Company Entity. Without limiting the foregoing, while this Agreement is in effect, the Manager will establish a management team, including a chief executive officer and president or similar positions, along with appropriate support personnel, to provide the management services to be provided by the Manager to the Company Entities hereunder, who shall devote such of their time to the management of the Company Entities and consideration of the Investment Guidelines and policies as necessary and appropriate, commensurate with the level of activity of the Company from time to time.

(1) The Manager, at its sole cost and expense, shall maintain reasonable and customary "errors and omissions" insurance coverage and other customary insurance coverage in respect to its obligations and activities under, or pursuant to, this Agreement, naming the Trust and the Operating Partnership as additional insureds.

(m) The Manager shall provide such internal audit, compliance and control services as may be required for the Company to comply with applicable law (including the Securities Act and Exchange Act), regulation (including SEC regulations) and the rules and requirements of the NASDAQ and as otherwise reasonably requested by the Company or the Board from time to time.

(n) The Manager shall maintain any required registration of the Manager or any Affiliate with the Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended, or with any state securities authority in any state in which the Manager or its Affiliate is required to be registered as an investment advisor under applicable state securities laws.

(o) The Manager's duties under this Agreement shall not include either (i) providing any asset management services in connection with the management of the Investments or (ii) providing any property management or leasing services in connection with Real Estate Assets owned by the Company's Entities. However, the Manager's duties shall include the obligation to engage qualified entities to perform such services, and to supervise the provision of such services. The Manager may engage its Affiliates to perform asset management and property management services provided that the compensation paid for such service shall not exceed the compensation that would be payable to unaffiliated providers engaged to provide such services pursuant to agreements negotiated on an arm's length basis.

Section 3. Conduct Policies.

The Manager acknowledges receipt of the Company's Code of Business Conduct and Ethics and the Company's Policy on Insider Trading (collectively, the "Conduct Policies") and will use commercially reasonable efforts to require the Persons who provide services to the Company to comply with the Conduct Policies in the performance of such services hereunder or such comparable policies as shall in substance hold such Persons to at least the standards of conduct set forth in the Conduct Policies.

Section 4. Additional Activities of the Manager; Non-Solicitation; Restrictions.

(a) Subject to Section 4(c) and except as may be provided in the Investment Guidelines, nothing in this Agreement shall: (i) prevent the Manager, any of its Affiliates or any of their respective officers, directors or employees, from engaging in other businesses or from rendering services of any kind to any other Person, whether or not the investment objectives or policies of any such other Person are similar to those of the Company; provided, however, that the Manager devotes sufficient resources to the Company's business to discharge its obligations to the Company under this Agreement; or (ii) in any way bind or restrict the Manager, any of its

Affiliates or any of their respective officers, directors or employees from buying, selling or trading any securities or commodities for their own accounts or for the account of others for whom the Manager, any of its Affiliates or any of their respective officers, directors or employees may be acting.

(b) While information and recommendations supplied to the Company shall, in the Manager's good faith judgment, be appropriate under the circumstances and in light of the investment objectives and policies of the Company, they may be different from the information and recommendations supplied by the Manager or any Affiliate of the Manager to others. The Company shall be entitled to equitable treatment under the circumstances in receiving information, recommendations and any other services, but the Company recognizes that the Company is not entitled to receive preferential treatment as compared with the treatment given by the Manager or any Affiliate of the Manager to others.

(c) The Manager shall report to the Board any condition or circumstance, existing or anticipated, of which it has knowledge, which creates or could create a conflict of interest between the Manager's obligations to the Company and its obligations to or its interest in any other Person. If the Manager or any of its Affiliates sponsors any other investment program with similar investment objectives to the Company that has investment funds available at the same time as the Company, the Manager shall inform the Board of the method to be applied by the Manager in allocating investment opportunities among the Company and competing investment entities and shall provide regular updates to the Board of the investment opportunities provided by the Manager to competing programs in order for the Board (including the Independent Directors) to evaluate that the Manager is allocating such opportunities in accordance with such method.

(d) In the event of a Termination Without Cause of this Agreement by the Company pursuant to Section 11(b), for a period of two years from and after the date of such termination of this Agreement, the Company shall not (and shall cause each of the Company Entities not to), without the consent of the Manager, employ or otherwise retain directly, or indirectly by any Company Entity any Person who was employed as an executive by the Manager or any of its Affiliates on the date of such termination or any Person who shall have been employed as an executive by the Manager or any of its Affiliates at any time within the two-year period immediately preceding the date on which such Person is scheduled to commence employment with or otherwise be retained by the Company or any other Company Entity. The Company acknowledges and agrees that, in addition to any damages, the Manager shall be entitled to equitable relief for any violation of this Section 4(d) by the Trust or the Operating Partnership (directly or indirectly through any of their respective subsidiaries), including injunctive relief.

Section 5. Bank Accounts.

At the direction of the Board, the Manager may establish and maintain one or more bank accounts in the name of any Company Entity, and may collect and deposit into any such account or accounts, and disburse funds from any such account or accounts, under such policies, terms and conditions as the Company may establish and the Board may approve, provided that no funds shall be commingled with the funds of the Manager or its Affiliates. The Manager shall

from time to time render appropriate accountings of such collections and payments to the Board and, upon request, shall provide information regarding such account to the Company's auditors.

Section 6. Records; Confidentiality.

(a) The Manager shall maintain appropriate books of accounts and records relating to services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Company Entities at any time during normal business hours. The Manager shall keep confidential any and all non-public information, written or oral, obtained by it in connection with the services rendered hereunder ("Confidential Information") and shall not use Confidential Information except in furtherance of its duties under this Agreement or disclose Confidential information, in whole or in part, to any Person other than (i) to its Affiliates and the officers, directors, employees, agents, representatives or advisors of the Manager or any of its Affiliates who need to know such Confidential information for the purpose of rendering services hereunder, (ii) to appraisers, financing sources and others in the ordinary course of the Company's business ((i) and (ii) collectively, "Manager Permitted Disclosure Parties"), (iii) in connection with any governmental or regulatory filings of the Company, or filings with NASDAQ or other applicable securities exchange or market, (iv) in presentations or other disclosures to the Company's investors (subject to compliance with Regulation FD), (iv) to Governmental officials having jurisdiction over the Company, (v) as requested by law or legal process to which the Manager or any Person to whom disclosure is permitted hereunder is a party, or (vi) with the consent of the Company. The Manager will inform each of its Manager Permitted Disclosure Parties of the non-public nature of the Confidential Information and to obtain agreement from such Persons to treat such Confidential Information in accordance with the terms hereof.

(b) Nothing herein shall prevent any Manager Permitted Disclosure Party from disclosing Confidential Information (i) upon the order of any court or administrative agency, (ii) upon the request or demand of, or pursuant to any law or regulation to, any regulatory agency or authority, (iii) to the extent reasonably required in connection with the exercise of any remedy hereunder, or (iv) to its legal counsel or independent auditors; provided, however, that with respect to clauses (i) and (ii), it is agreed that, so long as not legally prohibited, the Manager will provide the Trust with prompt written notice of such order, request or demand so that the Trust may seek, at its sole expense, an appropriate protective order and/or waive any Manager Permitted Disclosure Party's compliance with the provisions of this Agreement. If, failing the entry of a protective order or the receipt of a waiver hereunder, the Manager is required to disclose Confidential Information, the Manager Permitted Disclosure Party may disclose only that portion of such information that is legally required without liability hereunder; provided, however, that the Manager Permitted Disclosure Party agrees to exercise commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such information.

(c) Notwithstanding anything herein to the contrary, the following types of Confidential Information shall be deemed to be excluded from provisions hereof: (i) any Confidential Information that is available to the public from a source other than the Manager or

its Affiliates, (ii) any Confidential Information that is released in writing by any of the Company Entities to the public (except to the extent exempt under, and in compliance with, Regulation FD) or to persons who are not under similar obligation of confidentiality to any of the Company Entities; and (iii) any Confidential information that is obtained by the Manager from a third party which, to the Manager's knowledge, does not constitute a breach by such third party of an obligation of confidence with respect to the Confidential Information disclosed.

(d) The provisions of this Section 6 shall survive the expiration or earlier termination of this Agreement for a period of two years thereafter, provided that the parties will maintain trade secrets of the other party identified in writing as trade secrets, and which in fact constitute trade secrets, for a period of no longer than five years thereafter.

Section 7. Compensation.

(a) Fee for Real Estate Assets. The Company shall pay an annual fee to Manager in the amount which is the sum of (a) Forty Thousand Dollars ($40,000) multiplied by the number (not to exceed nine (9)) of Real Estate Assets owned by the Company Entities during such year and (b) Twenty Thousand Dollars ($20,000) multiplied by the number of Real Estate Assets owned by the Company Entities in excess of nine (9). Such fee shall be paid on a monthly basis in arrears and shall be prorated for any Real Estate Assets which are owned for less than the entire month for which such fee is determined.

(b) Fee for Other Investments. The Company shall pay such fee or other compensation with respect to any Investments, other than Real Estate Assets, owned by any of the Company Entities as shall be agreed by the Company and the Manager.

Section 8. Expenses of the Company.

(a) The Manager shall be responsible for the expenses related to any and all personnel of the Manager and its Affiliates who provide services to the Company pursuant to this Agreement (including each of the officers and directors of the Company who are also directors, officers, employees or agents of the Manager or any of its Affiliates), including salaries, bonus and other wages, payroll taxes, the cost of employee benefit plans of such personnel, and costs of insurance with respect to such personnel. For the avoidance of doubt, any equity incentive plan of the Trust or the Operating Partnership in which any person referred to above participates shall be excluded from the operation of this Section 8(a).

(b) The Company shall pay (or cause to be paid) all the costs and expenses of each Company Entity and shall reimburse the Manager or its Affiliates for expenses of the Manager and its Affiliates incurred on behalf of any Company Entity, excepting only those expenses that are specifically the responsibility of the Manager pursuant to Section 8(a). Without limiting the generality of the foregoing, it is specifically agreed that the following costs and expenses of the Company Entities shall be paid (or caused to be paid) by the Company and shall not be paid by the Manager or Affiliates of the Manager:

(i) Acquisition Expenses incurred in connection with the selection and acquisition of Investments;

(ii) fees for asset management or property management services rendered to the Company Entities by providers retained by Manager (including Affiliates of Manager);

(iii) expenses in connection with the issuance of securities of the Company, any Financing Transaction and other costs incident to the acquisition, disposition and financing of the Investments;

(iv) costs of legal, tax, accounting, consulting, auditing and other similar services rendered to the Company by providers retained by the Manager, or, if provided by the Manager's personnel, in amounts which are no greater than those which would be payable to outside professionals or consultants engaged to perform such services pursuant to agreements negotiated on an arm's-length basis;

(v) the compensation and expenses of the Directors and the cost of liability insurance to indemnify the Company and its officers and the Directors;

(vi) expenses connected with communications to holders of the securities of any Company Entity and other bookkeeping and clerical work necessary in maintaining relations with holders of such securities and in complying with the continuous reporting and other requirements of governmental bodies or agencies, including all costs of preparing and filing required reports with the SEC, the costs payable by the Company to any transfer agent and registrar in connection with the listing and/or trading of the Company's securities on any exchange, the fees payable by the Company to any such exchange in connection with its listing, costs of preparing, printing and mailing the Trust's annual report to its stockholders or the Operating Partnership's partners, as applicable, and proxy materials with respect to any meeting of the Trust's stockholders or the Operating Partnership's partners, as applicable;

(vii) costs associated with any computer software or hardware, electronic equipment or purchased information technology services from third-party vendors that is used for the Company Entities;

(viii) expenses incurred by managers, officers, personnel and agents of the Manager for travel on the Company's behalf and other out-of-pocket expenses incurred by managers, officers, personnel and agents of the Manager in connection with the purchase, financing, refinancing, sale or other disposition of an Investment or in connection with any Financing Transaction;

(ix) costs and expenses incurred with respect to market information systems and publications, research publications and materials, and settlement, clearing and custodial fees and expenses;

(x) the costs of maintaining compliance with all federal, state and local rules and regulations or any other regulatory agency;

(xi) all taxes and license fees;

(xii) all insurance costs incurred in connection with the operation of the Company's business except for the costs attributable to the insurance that the Manager elects to carry for itself and its personnel;

(xiii) costs and expenses incurred in contracting with third parties;

(xiv) all other costs and expenses relating to the Company's business and investment operations, including the costs and expenses of owning, protecting, maintaining, developing and disposing of Investments, including appraisal, reporting, audit and legal fees;

(xv) expenses relating to any office(s) or office facilities, including disaster backup recovery sites and facilities, maintained for the Company Entities or the Investments of the Company separate from the office or offices of the Manager;

(xvi) expenses connected with the payments of interest, dividends or distributions in cash or any other form authorized or caused to be made by the Board, the Operating Partnership or other governing body to or on account of holders of the securities of any Company Entity, including in connection with any dividend reinvestment plan:

(xvii) any judgment or settlement of pending or threatened proceedings (whether civil, criminal or otherwise) against any Company Entity, or against any trustee, director, partner, member or officer of such Company Entity in his capacity as such for which such Company Entity is required to indemnify such trustee, director, partner, member or officer pursuant to the applicable Governing Instruments or any agreement or other instrument or by any court or governmental agency; and

(xviii) all other expenses actually incurred by the Manager (except as otherwise specified herein) which are reasonably necessary or advisable for the performance by the Manager of its duties and functions under this Agreement.

(c) Costs and expenses incurred by the Manager on behalf of the Company shall be reimbursed monthly to the Manager. The Manager shall prepare a written statement in reasonable detail documenting the costs and expenses of the Company and those incurred by the Manager on behalf of the Company during each month, and shall deliver such written statement to the Company within 30 days after the end of each month. The Company shall pay all amounts payable to the Manager pursuant to this Section 8(c) within five Business Days after the receipt of the written statement without demand, deduction, offset or delay. Cost and expense reimbursement to the Manager shall be subject to adjustment at the end of each calendar year in connection with the annual audit of the Company. The provisions of this Section 8 shall survive

the expiration or earlier termination of this Agreement to the extent such expenses have previously been incurred or are incurred in connection with such expiration or termination.

Section 9. Limits of the Manager's Responsibility; Indemnification.

(a) The Manager, its Affiliates and their respective directors, officers, employees, partners, members, stockholders, other equity holders, agents and representatives (each, a "Manager Indemnified Party"), will not be liable to any Company Entity or any of the stockholders, partners, members or other holders of equity interests of any Company Entity for any acts or omissions by any Manager Indemnified Party performed in accordance with and pursuant to this Agreement, except by reason of any act or omission constituting bad faith, willful misconduct or gross negligence on the part of such Manager Indemnified Party. The Company shall, to the fullest lawful extent, reimburse, indemnify and hold harmless each Manager Indemnified Party, of and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including reasonable attorneys' fees and costs of investigation) (collectively "Losses") in respect of or arising from any acts or omissions of such Manager Indemnified Party performed in good faith under this Agreement and not constituting bad faith, willful misconduct or gross negligence on the part of such Manager Indemnified Party. In addition, the Company shall advance funds to a Manager Indemnified Party for legal fees and other costs and expenses incurred as a result of any claim, suit, action or proceeding for which indemnification is being sought, provided that such Manager Indemnified Party undertakes to repay the advanced funds to the Company, together with the applicable legal rate of interest thereon, in cases in which such Manager Indemnified Party is found pursuant to a final and non-appealable order or judgment to not be entitled to indemnification.

(b) The Manager shall, to the fullest lawful extent, reimburse, indemnify and hold harmless the Trust and the Operating Partnership (each, a "Company Indemnified Party") of and from any and all Losses in respect of or arising from (i) any acts or omissions of the Manager constituting bad faith, willful misconduct or gross negligence on the part of the Manager, or (ii) any claims by the Manager's employees relating to the terms and conditions of their employment by the Manager. The Manager assumes no responsibility under this Agreement other than to render in good faith the services specifically designated as to be provided by the Manager hereunder and shall not be responsible for any action of the Board in following or declining to follow any advice or recommendations of the Manager, including as set forth in the Investment Guidelines. A Manager Indemnified Party and a Company Indemnified Party are each sometimes hereinafter referred to as an "Indemnified Party."

(c) In case any such claim, suit, action or proceeding (a "Claim") is brought against any Indemnified Party in respect of which indemnification may be sought by such Indemnified Party pursuant hereto, the Indemnified Party shall give prompt written notice thereof to the indemnifying party, which notice shall include all documents and information in the possession of or under the control of such Indemnified Party reasonably necessary for the evaluation and/or defense of such Claim and shall specifically state that indemnification for such Claim is being sought under this Section 9; provided, however, that the failure of the indemnified Party to so notify the indemnifying party shall not limit or affect such Indemnified Party's rights except to

the extent that the indemnifying party is actually prejudiced thereby. Upon receipt of such notice of Claim (together with such documents and information from such Indemnified Party), the indemnifying party shall, at its sole cost and expense, in good faith defend any such Claim with counsel reasonably satisfactory to such indemnified Party, which counsel may, without limiting the rights of such Indemnified Party pursuant to the next succeeding sentence of this Section, also represent the indemnifying party in such investigation, action or proceeding. In the alternative, such Indemnified Party may elect to conduct the defense of the Claim, if (i) such Indemnified Party reasonably determines that the conduct of its defense by the indemnifying party could be materially prejudicial to its interests, (ii) the indemnifying party refuses to assume such defense (or fails to give written notice to the Indemnified Party within ten days of receipt of a notice of Claim that the indemnifying party assumes such defense), or (iii) the indemnifying party shall have failed, in such Indemnified Party's reasonable judgment, to defend the Claim in good faith. The indemnifying party may settle any Claim against such Indemnified Party without such Indemnified Party's consent, provided (A) such settlement is without any Losses whatsoever to such Indemnified Party, (B) the settlement does not include or require any admission of liability or culpability by such Indemnified Party, (C) the indemnifying party obtains an effective written release of liability for such Indemnified Party from the party to the Claim with whom such settlement is being made, which release must be reasonably acceptable to such Indemnified Party, and a dismissal with prejudice with respect to all claims made by the party against such indemnified Party in connection with such Claim, and (D) such settlement does not provide for any equitable relief. The applicable Indemnified Party shall reasonably cooperate with the indemnifying party, at the indemnifying party's sole cost and expense, in connection with the defense or settlement of any Claim in accordance with the terms hereof. If such indemnified Party is entitled pursuant to this Section 9 to elect to defend such Claim by counsel of its own choosing and so elects, then the indemnifying party shall be responsible for any good faith settlement of such Claim entered into by such Indemnified Party. Except as provided in the immediately preceding sentence, no Indemnified Party may pay or settle any Claim and seek reimbursement therefor under this Section 9.

(d) The provisions of this Section 9 shall survive the expiration or earlier termination of this Agreement.

Section 10. No Joint Venture.

The parties to this Agreement are not partners or joint venturers with each other and nothing herein shall be construed to make them partners or joint venturers or impose any liability as such on either of them.

Section 11. Term; Renewal; Termination Without Cause.

(a) This Agreement shall become effective on the Closing Date and shall continue in operation, unless terminated in accordance with the terms hereof, until the fifth anniversary of the Closing Date (the "Initial Term"). After the Initial Term, this Agreement shall be deemed renewed automatically each year for an additional one-year period (an "Automatic Renewal

Term"), unless the Company or the Manager elects not to renew this Agreement in accordance with Section 11(b) or Section 11(d), respectively.

(b) Notwithstanding any other provision of this Agreement to the contrary, upon written notice provided to the Manager no later than 180 days prior to the expiration of the Initial Term or any Automatic Renewal Term (the "Termination Notice"), the Company may, without cause, in connection with the expiration of the Initial Term or the then current Automatic Renewal Term, decline to renew this Agreement (any such nonrenewal, a "Termination Without Cause") upon the affirmative vote of a majority of the Independent Directors that includes a finding by such majority either that (i) there has been unsatisfactory performance by the Manager that is materially detrimental to the Company Entities, taken as a whole, or (ii) the fees payable to the Manager under Section 7 are not, taken as a whole, in accordance with then-current market rates charged by administrative services and asset management companies rendering services similar to those rendered by the Manager ("Above Market Rates"), subject to Section 11(c), and only after reasonable investigation by the Independent Directors as to the market rates charged by similarly situated managers. In the event of a Termination Without Cause, the Company shall pay the Manager the Fees Accrued Upon Termination, before or on the last day of the Initial Term or such Automatic Renewal Term, as the case may be (the "Effective Termination Date"). The Company may terminate this Agreement for cause pursuant to Section 13 even after a Termination Notice and, in such case, no Fees Accrued Upon Termination shall be payable.

(c) Notwithstanding the provisions of Section 11(b), if the reason for nonrenewal specified in the Company's Termination Notice is that a majority of the Independent Directors have determined that the fees payable to the Manager under Section 7 are, taken as a whole, at Above-Market Rates, then the Company shall not have the foregoing nonrenewal right if the Manager agrees that it will continue to perform its duties hereunder during the Automatic Renewal Term that would commence upon the expiration of the Initial Term or then current Automatic Renewal Term at rates that a majority of the Independent Directors determine to be at market rates, taken as a whole; provided, however, that if the Independent Directors have made such a determination, the Manager shall have the right to renegotiate the rate of fees payable to the Manager under Section 7 as so determined by the Independent Directors, by delivering to the Company, not less than 120 days prior to the pending Effective Termination Date, written notice (a "Notice of Proposal to Negotiate") of its intention to renegotiate the fees payable to the Manager under Section 7. Thereupon, the Company and the Manager shall endeavor to negotiate the fees payable to the Manager under Section 7 in good faith. Provided that the Company and the Manager agree to a revised fee structure under Section 7 within 60 days following the Company's receipt of the Notice of Proposal to Negotiate, the Termination Notice from the Company shall be deemed of no force and effect, and this Agreement shall continue in full force and effect on the terms stated herein, except that the compensation structure shall be the revised compensation structure as then agreed upon by the Company and the Manager. The Company and the Manager agree to execute and deliver an amendment of this Agreement setting forth such revised fee structure promptly upon reaching an agreement regarding same. If the Company and the Manager are unable to agree to a revised compensation structure during such 60-day period, this Agreement shall terminate on the Effective Termination Date and the Company shall be obligated to pay the Manager the Fees Accrued Upon Termination upon the Effective Termination Date.

(d) No later than 180 days prior to the expiration of the Initial Term or the then current Automatic Renewal Term, the Manager may deliver written notice to the Company informing the Company of the Manager's intention to discontinue performance of services pursuant to this Agreement as of the upcoming expiration date, whereupon this Agreement shall not be renewed and extended and this Agreement shall terminate effective on the anniversary date of this Agreement next following the delivery of such notice. The Company shall pay to the Manager the Fees Accrued Upon Termination, if the Manager terminates this Agreement pursuant to this Section 11(d).

(e) Except as set forth in this Section 11. a non-renewal of this Agreement pursuant to this Section 11 shall be without any further liability or obligation of any party to the others, except as provided in Sections 6, 8, 9 and 15.

(f) The Manager shall cooperate with the Company in executing an orderly transition of the management of the Company Entities to a new manager.

Section 12. Assignments.

(a) Assignments by the Manager. This Agreement shall terminate automatically without payment of the Fees Accrued Upon Termination in the event of its assignment, in whole or in part, by the Manager, unless such assignment has been consented to in writing by (i) the Trust with the consent of a majority of the Independent Directors, and (ii) the Operating Partnership. Any such permitted assignment shall bind the assignee under this Agreement in the same manner as the Manager is bound. In addition, the assignee shall execute and deliver to the Company a counterpart of this Agreement naming such assignee as the Manager. Notwithstanding the foregoing, the Manager may, without the approval of the Company's Independent Directors, (A) assign this Agreement to an Affiliate of the Manager, and (B) delegate to one or more of its Affiliates the performance of any of its responsibilities hereunder so long as it remains liable for any such Affiliate's performance to the same extent had such delegation not occurred, in each case so long as assignment or delegation does not require the Company's approval under the Investment Company Act (but if such approval is required, the Company shall not unreasonably withhold, condition or delay its consent). Nothing contained in this Agreement shall preclude any pledge, hypothecation, assignment or other transfer of any amounts payable to the Manager under this Agreement.

(b) Assignments by the Company. This Agreement shall not be assigned by the Company without the prior written consent of the Manager, except in the case of assignment by the Company to another REIT or other organization which is a successor (by merger, consolidation, purchase of assets, or other similar transaction) to the Company, in which case such successor organization shall be bound under this Agreement and by the terms of such assignment in the same manner as the Company is bound under this Agreement.

Section 13. Termination for Cause.

(a) The Company may terminate this Agreement for cause effective upon 30 days' prior written notice of termination from the Company to the Manager (a "Cause Termination Notice"), without payment of any Fees Accrued Upon Termination, upon the occurrence of:

(i) a breach by the Manager, its agents or its assignees of any material provision of this Agreement and such breach shall continue for a period of 60 days after written notice thereof specifying such breach and requesting that the same be remedied in such 60-day period (or 90 days after written notice of such breach if the Manager takes steps to cure such breach within 60 days of the written notice);

(ii) a Bankruptcy Event with respect to the Manager,

(iii) a Manager Change of Control which a majority of the Independent Directors has determined to be materially detrimental to the Company Entities, taken as a whole;

(iv) the dissolution of the Manager; or

(v) (A) a final determination by a court that the Manager has committed fraud against the Company, the Manager has embezzled funds of the Company or the Manager has otherwise acted, or failed to act, in a manner constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance of its duties under this Agreement, (B) which act of fraud, embezzlement or other act or failure to act described in clause (v)(A) above has had a material adverse effect on the consolidated business, operations and financial condition of the Company, and (C) where a majority of the Independent Directors of the Trust has voted affirmatively to terminate this Agreement for cause as a result of such fraud, embezzlement or other act or failure to act, which vote shall have occurred within 30 days following the final determination referred to in clause (v)(A) above; provided, however, if such fraud, embezzlement or other act or failure to act was committed by a person other than an executive officer of the Manager, then the Manager can cure the same by terminating the employment of such person on or prior to the 30th day following such final determination, in which event the Company shall cease to have the right to terminate this Agreement for cause pursuant to this Section 13(a) and any Cause Termination Notice previously given in reliance on this clause (v) automatically shall be deemed to have been rescinded and nugatory.

(b) The Manager may terminate this Agreement effective upon 60 days' prior written notice of termination to the Company if the Company shall default in the performance or observance of any material term, condition or covenant contained in this Agreement and such default shall continue for a period of 60 days after written notice thereof specifying such default and requesting that the same be remedied in such 60-day period. The Company shall be required to pay to the Manager the Fees Accrued Upon Termination if the termination of this Agreement is made pursuant to this **Section 13(b)**.

(c) The Manager may terminate this Agreement if the Company becomes required to register as an investment company under the Investment Company Act, with such termination deemed to occur immediately before such event.

Section 14. Action Upon Termination.

From and after the effective date of termination of this Agreement pursuant to Section 11, 12 or 13, the Manager shall not be entitled to compensation for further services hereunder except for Fees Accrued Upon Termination which are payable pursuant to this Agreement. Upon any such termination, the Manager shall forth-with:

(a) after deducting any accrued compensation and reimbursement for its expenses to which it is then entitled, pay over to each Company Entity all money collected and held for the account of such Company Entity pursuant to this Agreement;

(b) deliver to the Board a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting furnished to the Board with respect to the Company Entities;

(c) deliver to the Board all property and documents of the Company Entities then in the custody of the Manager; and

(d) cooperate with the Company Entities to provide an orderly management transition.

Section 15. Release of Money or Other Property Upon Written Request.

The Manager agrees that any money or other property of the Company (which, for the purposes of this Section 15, shall be deemed to include any and all of their respective subsidiaries, if any) held by the Manager shall be held by the Manager as custodian for the Company, and the Manager's records shall be appropriately and clearly marked to reflect the ownership of such money or other property by the Company. Upon the receipt by the Manager of a written request signed by a duly authorized officer of the Company requesting the Manager to release to the Company any money or other property then held by the Manager for the account of the Company under this Agreement, the Manager shall release such money or other property to the Company or within a reasonable period of time, but in no event later than 60 days following such request. Upon delivery of such money or other property to the Company, the Manager shall not be liable to the Company, the Board, the Trust's stockholders, the Operating Partnership's partners or any of the directors or equity holders of any subsidiary of the Company for any acts or omissions by the Company in connection with the money or other property released to the Company in accordance with this Section 15. The Company shall indemnify the Manager Indemnified Parties against any and all Losses which arise in connection with the Manager's proper release of such money or other property to the Company in accordance with the terms of

this Section 15. Indemnification pursuant to this provision shall be in addition to any right of the Manager Indemnified Parties to indemnification under Section 9.

Section 16. Miscellaneous.

(a) Notices. All notices, requests, communications and demands (each a "Notice") to, with or upon any of the respective parties shall be in writing and sent by (i) personal delivery, (ii) reputable overnight courier, (iii) facsimile transmission with telephonic confirmation (provided that such Notice also is sent contemporaneously by another method provided for in this Section 16(a)), or (iv) registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below (or to such other address as may be hereafter notified by the respective parties hereto in accordance with this Section 16(a)):

the Trust:	Wheeler Real Estate Investment Trust, Inc. Riversedge North, Suite 200 2529 Virginia Beach Boulevard Virginia Beach, Virginia 23452 Attention: Jon S. Wheeler Fax: (757) 627-9081
with a copy to:	Kaufman & Canoles, a Professional Corporation 150 W. Main Street Norfolk, Virginia 23510 Attention: Charles E. Land, Esq. Fax: (757) 624-3169
The Operating Partnership:	Wheeler Real Estate Investment Trust, Inc. Riversedge North, Suite 200 2529 Virginia Beach Boulevard Virginia Beach, Virginia 23452 Attention: Jon S. Wheeler Fax: (757) 627-9081
with a copy to:	Kaufman & Canoles, a Professional Corporation 150 W. Main Street Norfolk, Virginia 23510 Attention: Charles E. Land, Esq. Fax: (757) 624-3169
The Manager:	WHLR Management, LLC Riversedge North, Suite 200 2529 Virginia Beach Boulevard Virginia Beach, Virginia 23452 Attention: Jon S. Wheeler Fax: (757) 627-9081

with a copy to: Kaufman & Canoles, a Professional Corporation
150 W. Main Street
Norfolk, Virginia 23510
Attention: Charles E. Land, Esq.
Fax: (757) 624-3169

Any Notice sent as aforesaid shall be deemed given and effective upon actual receipt (or refusal of receipt).

(b) Binding Nature Agreement; Successors and Assigns; No Third Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and permitted assigns. Except as provided in this Agreement with respect to indemnification of Indemnified Parties hereunder, nothing in this Agreement shall confer any rights upon any Person other than the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

(c) Integration. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof.

(d) Amendments. This Agreement, nor any terms hereof, may not be amended or supplemented except in an installment in writing executed by the parties hereto.

(e) GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF VIRGINIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF THE PARTIES HERETO IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF VIRGINIA AND THE UNITED STATES DISTRICT COURT FOR ANY DISTRICT WITHIN SUCH STATE FOR THE PURPOSE OF ANY ACTION OR JUDGMENT RELATING TO OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY AND TO THE LAYING OF VENUE IN SUCH COURT.

(f) WAIVER OF JURY TRIAL. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND, THEREFORE, EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

(g) No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of a party hereto, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

(h) Costs and Expenses. Each party hereto shall bear its own costs and expenses (including the fees and disbursements of counsel and accountants) incurred in connection with the negotiations and preparation of this Agreement, and all matters incident thereto. If any party hereto initiates any legal action arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover from the other party all reasonable attorneys' fees, expert witness fees and expenses incurred by the prevailing party in connection therewith.

(i) Section Headings. The section and subsection headings in this Agreement are for convenience in reference only and shall not be deemed to alter or affect the interpretation of any provisions hereof.

(j) Counterparts. This Agreement may be executed (including by facsimile transmission) with counterpart signature pages or in any number of separate counterparts, and all of which taken together shall be deemed to constitute one and the same instrument.

(k) Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

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IN WITNESS WHEREOF, each of the parties hereto has executed this Management Agreement as of the date first written above.

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

By: /s/ Jon S. Wheeler
Name: Jon S. Wheeler, President

WHEELER REAL ESTATE INVESTMENT TRUST, L.P.

By: Wheeler Real Estate Investment Trust, Inc., its General Partner

By: /s/ Jon S. Wheeler
Name: Jon S. Wheeler, President

WHLR MANAGEMENT, LLC

By: /s/ Jon S. Wheeler
Name: Jon S. Wheeler
Title:

Exhibit 10.6

November 16, 2012

Wheeler Real Estate Investment Trust, Inc.
Riversedge North
2529 Virginia Beach Blvd., Suite 200
Virginia Beach, Virginia 23452

Re: Subordination of Dividend Payments

Ladies and Gentlemen:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned (the "Undersigned") hereby agrees with Wheeler Real Estate Investment Trust, Inc. (the "Company") as follows:

1. The Undersigned hereby, expressly and in all respects, subordinates and makes junior and inferior all obligations of the Company to make dividend payments to the Undersigned related to the Company's common stock, $0.01 par value per share, held, directly or indirectly, by the Undersigned (collectively, the "Undersigned's Shares") to the payment of dividends to the (a) other common shareholders of the Company and (b) holders of partnership units in Wheeler Real Estate Investment Trust, L.P., a Virginia limited partnership, of which the Company is the sole general partner (collectively, the "Other Shareholders"). Unpaid dividends to the Undersigned shall accrue and be paid as directed by the independent members of the Company's board of directors upon the achievement of the milestones or termination of the subordination as set forth in detail below.

2. This agreement shall terminate (a) upon the earlier of (i) the date that is three years following the date of the final prospectus utilized in the Company's initial public offering (such final prospectus shall be filed with the U.S. Securities and Exchange Commission pursuant to Rule 424 in connection with the Company's Registration Statement on Form S-11, File No. 333-1777262), or (ii) the calendar day following the date upon which the closing price on the Nasdaq Stock Market of the Company's common stock meets or exceeds the dollar price that is 116.67% of the price per share used in the Company's initial public offering for a period of at least five consecutive trading days; and (b) if there are no unpaid dividends to the Other Shareholders outstanding.

3. In the event that, notwithstanding the provisions of this Agreement, any dividend payment shall be received by the Undersigned in contravention of the express terms of this Agreement, such dividend payments shall be held in express trust for the benefit of the Other Shareholders and shall be paid over or delivered to the Company for the benefit of the Other Shareholders.

4. The Undersigned shall not transfer, directly or indirectly, any of the Undersigned's Shares unless, as a condition precedent to the Company's recognizing such transfer, each transferee or assignee shall agree in writing to be subject to each of the terms of this Agreement by executing and delivering an adoption agreement acceptable to the Company in it's sole and absolute discretion. Upon the execution and delivery of such adoption agreement by any transferee, such transferee shall be deemed to be a party hereto as if such transferee were the transferor and such transferee's signature appeared on the signature pages of this Agreement. The Company shall not permit the transfer of the Undersigned's Shares subject to this Agreement on its books or issue a new certificate representing any such Undersigned's Shares unless and until such transferee shall have complied with the terms of this paragraph. Each certificate representing the Shares subject to this Agreement if issued on or after the date of this Agreement shall be endorsed by the Company with the legend set forth below:

"THE SHARES EVIDENCED HEREBY ARE SUBJECT TO A DIVIDEND SUBORDINATION AGREEMENT, AS MAY BE AMENDED FROM TIME TO TIME, (A COPY OF WHICH MAY BE OBTAINED UPON WRITTEN REQUEST FROM THE COMPANY), AND BY ACCEPTING ANY INTEREST IN SUCH SHARES THE PERSON ACCEPTING SUCH INTEREST SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF THAT DIVIDEND SUBORDINATION AGREEMENT, INCLUDING CERTAIN RESTRICTIONS ON TRANSFER AND OWNERSHIP SET FORTH THEREIN."

5. Terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

6. This Agreement shall be governed by the internal law of the Commonwealth of Virginia.

7. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

8. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

9. No delay or omission to exercise any right, power or remedy accruing to any party under this agreement, upon any breach or default of any other party under this agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default previously or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this agreement, or any waiver on the part of any party of any

provisions or conditions of this agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

10. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

11. In the event of any issuance of shares of the Company's common stock hereafter to the Undersigned (including, without limitation, in connection with any stock split, stock dividend, recapitalization, reorganization, or the like), such additional shares shall be deemed to constitute a portion of the Undersigned's Shares and become subject to this Agreement and shall be endorsed with the legend set forth above.

12. The parties hereto (a) hereby irrevocably and unconditionally submit to the jurisdiction of the state courts of Commonwealth of Virginia and to the jurisdiction of the United States District Court for the Eastern District of Virginia for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (b) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the state courts of the Commonwealth of Virginia or the United States District Court for the Eastern District of Virginia, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court.

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AGREED AND ACCEPTED:

COMPANY:

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

By: /s/ Jon S. Wheeler

Name: Jon S. Wheeler

Title: President & Chairman

Date: 11/16/2012

UNDERSIGNED:

/s/ Jon S. Wheeler

Name: Jon S. Wheeler

Date: 11/16/2012

EXHIBIT 23.1

Consent of Independent Accountant

We hereby consent to the incorporation by reference in this Registration Statement of Wheeler Real Estate Investment Trust, Inc., of our reports each dated August 13, 2014, with respect to Port Crossing Shopping Center and LaGrange Marketplace for the years ended December 31, 2013 and 2012 and Cypress Shopping Center and Harrodsburg Marketplace for the year ended December 31, 2013, and of our report dated February 28, 2014, with respect to the Combined Statements of Revenues and Certain Operating Expenses of Clover Plaza, South Square, Waterway Plaza, Westland Square, and St. George Plaza for the years ended December 31, 2012 and 2011.

/s/ Cherry Bekaert LLP
Virginia Beach, Virginia
August 19, 2014

EXHIBIT 23.2

Consent of Independent Accountant

We hereby consent to the incorporation by reference in the Registration Statements of Wheeler Real Estate Investment Trust, Inc., on Form S-11 (No. 333-194831) and Form S-3 (Nos. 333-193563 and 333-194252) of our report dated August 19, 2014, with respect to the Statement of Revenues and Certain Operating Expenses of Freeway Junction for the year ended December 31, 2013, and our reports each dated March 26, 2014, with respect to the Statements of Revenues and Certain Operating Expenses of Brook Run Shopping Center and Northeast Plaza Shopping Center for the years ended December 31, 2013 and 2012, which appear in this Registration Statement.

/s/ Cherry Bekaert LLP
Virginia Beach, Virginia
August 19, 2014

Exhibit 23.3

Consent of Independent Registered Public Accounting Firm

We hereby consent to the incorporation by reference in this Registration Statement of Wheeler Real Estate Investment Trust, Inc., of our report dated March 21, 2014, relating to the consolidated and combined financial statements and financial statement schedules for the two years ended December 31, 2013, which appears in the Company's annual report on Form 10-K and is incorporated herein by reference.

/s/ Cherry Bekaert LLP
Virginia Beach, Virginia
August 19, 2014