INVESTORS REAL ESTATE TRUST
Form S-3
June 23, 2016
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As filed with the Securities and Exchange Commission on June 23, 2016

Registration No. -

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form S-3

REGISTRATION STATEMENT

UNDER THE SECURITIES ACT OF 1933

Investors Real Estate Trust

(Exact name of registrant as specified in its charter)

North Dakota	**45-0311232**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

1400 31st Avenue SW, Suite 60

Minot, ND 58702

(701) 837-4738

(Address, including zip code, and telephone number, including area code,

of registrant s principal executive offices)

Timothy P. Mihalick

President and Chief Executive Officer

Investors Real Estate Trust

1400 31st Avenue SW, Suite 60, P.O. Box 1988

Minot, ND 58702

(701) 837-4738

(Name, address, including zip code, and telephone number,

including area code, of agent for service)

Copies to:

Joy S. Newborg, Esq.

Associate General Counsel

800 LaSalle Avenue, Suite 1600

Minneapolis, MN 55402

(952) 401-6600

Approximate date of commencement of proposed sale to the public: From time to time after the registration statement becomes effective.

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

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

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

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 same offering. o

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

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

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 x Accelerated filer o Non-accelerated filer o Smaller reporting company o

CALCULATION OF REGISTRATION FEE

(1) Pursuant to Rule 416 promulgated under the Securities Act of 1933, as amended (the Securities Act), this registration statement shall also cover any additional common shares which become issuable as a result of adjustment by reason of any share dividend, share split, recapitalization or similar transaction.

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) of Regulation C under the Securities Act, based on the average of the high and low sales prices for the Registrant s common shares, as reported on the New York Stock Exchange on June 17, 2016, which was within five business days prior to the date of filing of this Registration Statement on Form S-3.

(3) Pursuant to Rule 415(a)(6) under the Securities Act, this Registration Statement includes 1,768,239 common shares previously registered on the prospectus supplement filed with the Commission on February 10, 2014 to the now expiring Form S-3 (No. 333-189637) filed with the Commission on June 27, 2013, which became effective on February 10, 2014 (prior Unit registration statement), which remain unsold by the Registrant. The Registrant had paid a filing fee of $1,919.93 for such unsold common shares, which will continue to be applied to such unsold shares pursuant to Rule 457(p) under the Securities Act. Pursuant to Rule 415(a)(6), the offering of unsold shares under the prior Unit registration statement will be deemed terminated as of the effective date of this Registration Statement.

(4) Pursuant to Rule 457(p) under the Securities Act, a portion of the filing fees with respect to $75,000,000 of unsold securities from the Registrant s prospectus supplement filed with the Commission on August 30, 2013 to the now expiring Form S-3 (No. 333-189637) filed with the Commission on June 27,

2013, which became effective on August 30, 2013 (prior ATM registration statement), are being applied towards this Registration Statement for the additional 2,647,621 common shares (additional common shares). The prior ATM registration statement registered common shares for a proposed maximum aggregate offering price of $75,000,000. As of the expiration of the prior ATM registration statement, the Registrant had not sold any of the $75,000,000 of common shares, resulting in an unused registration fee of $10,230. Pursuant to Rule 457(p) under the Securities Act, $1,663.68 of such previously paid registration fee is being applied to the additional common shares registered on this Registration Statement.

(5) This registration statement registers 4,415,860 common shares issuable to the holders of units of limited partnership interest in IRET Properties, a North Dakota Limited Partnership, the registrant s operating partnership subsidiary.

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 Commission, acting pursuant to said Section 8(a), may determine.

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The information contained in this Prospectus is not complete and may be changed. The selling shareholders named in this Prospectus may not sell the securities covered by this Prospectus until the registration statement filed with the Securities and Exchange Commission, of which this Prospectus is a part, is declared effective. This Prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where such an offer or sale is not permitted.

Subject to Completion, Dated June 23, 2016

PROSPECTUS

4,415,860 Common Shares of Beneficial Interest

This prospectus relates to the offer and resale, from time to time, by the selling shareholders named herein, of up to 4,415,860 common shares of beneficial interest, no par value, or common shares. Our common shares are the functional equivalent of common stock, having the rights and preferences normally associated with common stock. We may issue the common shares covered by this prospectus to the holders of units of limited partnership interest in IRET Properties, a North Dakota Limited Partnership, our operating partnership subsidiary (LP Units) to the extent that they redeem their LP Units and we elect to issue common shares in connection with such redemption. We may also elect to pay cash for redeemed LP Units in lieu of issuing common shares. We will not receive any proceeds from any common shares issued in exchange for the redemption of LP Units. The persons receiving common shares covered by this prospectus upon redemption of LP Units are referred to herein individually as a selling shareholder, and collectively as the selling shareholders.

We are registering the common shares covered by this prospectus as required under the Agreement of Limited Partnership of IRET Properties, dated January 31, 1997, and as amended to date (LP Agreement). The registration of the common shares does not necessarily mean that any of the LP Units will be submitted for redemption or that any of the common shares to be issued upon such redemption will be offered or sold by the selling shareholders.

The selling shareholders may resell the common shares covered by this prospectus from time to time on the New York Stock Exchange or such other national securities exchange or automated interdealer quotation system on which our common shares are then listed or quoted, through negotiated transactions or otherwise at market prices prevailing at the time of the sale or at negotiated prices. The selling shareholders may engage brokers or dealers who may receive commissions or discounts from such selling shareholders.

Our common shares are traded on the New York Stock Exchange under the symbol IRET. On June 17, 2016, the last reported sale price of our common shares was $6.35 per share. Our principal executive office is located at 1400 31st Avenue SW, Suite 60, Minot, North Dakota 58702, telephone number (701) 837-4738, facsimile number (701) 838-7785 and web site: www.iret.com. The information set forth on, or otherwise accessible through, our web site is not incorporated into, and does not form a part of, this prospectus or any other report or document we file with or furnish to the Securities and Exchange Commission (SEC).

NEITHER THE SEC NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED THESE SECURITIES OR PASSED UPON THE ADEQUACY OR ACCURACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

Investing in our common shares involves risks. See Risk Factors beginning on page 3 of this prospectus.

The date of this Prospectus is , 2016.

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ABOUT THIS PROSPECTUS

You should not assume that the information appearing in this prospectus is accurate as of any date other than the date on the front of this prospectus. Our business, financial condition, results of operations and prospects may have changed since then. Updated information may have been subsequently provided as explained in this prospectus under Where You Can Find More Information and Incorporation of Certain Documents by Reference.

It is important for you to read and consider all of the information contained in this prospectus in making your decision to invest in our common shares. You should also read and consider the information in the documents we have referred you to in Where You Can Find More Information and Incorporation of Certain Documents by Reference.

You should rely only on the information contained or incorporated by reference in this prospectus. We have not authorized any other person to provide you with different or additional information. If anyone provides you with different or additional information, you should not rely on it.

As used in this prospectus, references to we, our, us, the Company, IRET and similar references are to Investors Real Estate Trust and its consolidated subsidiaries, unless otherwise expressly stated or the context otherwise requires. References to common shares are to our common shares of beneficial interest, no par value. References to Series A preferred shares are to our 8.25% Series A Cumulative Redeemable Preferred Shares of Beneficial Interest, no par value. References to Series B preferred shares are to our 7.95% Series B Cumulative Redeemable Preferred Shares of Beneficial Interest, no par value. References to shares of beneficial interest are to all of our shares of beneficial interest including, without limitation, our common shares, our Series A preferred shares, our Series B preferred shares and any other shares of beneficial interest that we may issue in the future.

RISK FACTORS

An investment in our common shares involves certain risks that could affect us and our business, as well as the real estate industry generally. Please see Risk Factors beginning on page 10 of our Annual Report on Form 10-K for the fiscal year ended April 30, 2015, which is incorporated by reference herein, as well as the risks, uncertainties and additional information set forth in our SEC reports on Forms 10-K, 10-Q and 8-K and in the other documents incorporated by reference in this prospectus, to read about factors you should consider before investing in our common shares. Much of the business information and financial and operational data contained in our risk factors are updated in our periodic reports, which are also incorporated by reference into this prospectus. We cannot assure you of a profit or protect you against a loss on the common shares that you acquire.

IRET

We are a self-administered equity real estate investment trust (REIT) organized under the laws of North Dakota, and began operations in July 1970. Our business consists of acquiring, owning and leasing income-producing properties located primarily in the upper Midwest. Our investments consist of multifamily residential properties, consisting of apartment buildings, complexes and communities; healthcare properties, including senior housing; industrial; and other commercial properties. Our primary source of income and cash is rents associated with multifamily residential and commercial property leases.

We operate in a manner intended to enable us to maintain our qualification as a REIT under the Internal Revenue Code of 1986, as may be amended (Code). We are structured as an Umbrella Partnership Real Estate Investment Trust, or UPREIT, where we own our assets and conduct our day-to-day business operations through an operating partnership, IRET Properties, a North Dakota Limited Partnership, of which IRET, Inc., a North Dakota corporation and our wholly-owned subsidiary, is the sole general partner.

NO PROCEEDS TO IRET

We will not receive any proceeds from the issuance of the common shares, if any, covered by this prospectus or from the resale of the common shares, if any, covered by this prospectus by the selling shareholders. All of the

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proceeds from the resale of the common shares covered by this prospectus will go to the selling shareholders who offer and sell their shares.

SELLING SHAREHOLDERS

We may issue the common shares covered by this prospectus to the selling shareholders in exchange for LP Units if and to the extent that the selling shareholders redeem LP Units and we elect to issue common shares in exchange for such LP Units. The selling shareholders will have received all common shares that they may offer for sale under the prospectus by redeeming the LP Units to which this prospectus relates. The following table, to our knowledge, sets forth certain information with respect to the selling shareholders and their ownership of common shares as of September 26, 2013. No selling shareholder has held any position, office or had any other material relationship with us, or any of our predecessors or affiliates, during the past three years.

Since the selling shareholders may sell all, some or none of the common shares issued upon redemption of LP Units, and since to our knowledge there are currently no agreements, arrangements or understandings with respect to the sale of any of such common shares, no estimate can be given as to the number or percentage of common shares that will be held by the selling shareholders upon termination of any offering made hereby. The common shares covered by this prospectus represent approximately 3.2% of the sum of our total common shares outstanding as of June 15, 2016 plus all common shares to be issued in exchange for LP Units by the selling shareholders pursuant to this prospectus, assuming redemption of all LP Units in exchange for common shares.

Name of Selling Shareholder	Shares Owned Prior to the Offering (1)	Shares Being Offered (2)	Shares Owned After the Offering (3)	Percentage of Shares Owned After the Offering
Northridge, Properties, LLC	11,112	11,112	0	*
Northridge Assets, LLC	77,778	77,778	0	*
Northridge Capital, LLC	44,445	44,445	0	*
Bouquet Builders, Inc.	2,514,286	2,514,286	0	*
John S. Dalrymple III	59,259	59,259	0	*
Jack and Mary Thompson Family LP LLLP	119,113	61,934	57,179	*
Boyd Andersen	43,072	38,304	4,768	*
Shirley Andersen	21,518	19,136	2,382	*
Guy A. DeSautel	27,462	27,462	0	*
Kent J. DeSautel	27,462	27,462	0	*
Michael E. DeSautel	27,463	27,463	0	*
Timothy R. DeSautel	27,463	27,463	0	*
Wallace B. DeSautel and Ione M. DeSautel, Tenants in Common	147,120	147,120	0	*
Judith H. Stenehjem (SLS) Limited Partnership	137,164	137,164	0	*
C. Larson Family Farm, Inc	307,780	142,034	165,746	*
Francis Keller	90,781	90,781	0	*
John G. Stuck Living Trust DTD	116,190	113,541	2,649	*
Vernon and Judy Gornowicz, Tenants in Common	228,475	228,475	0	*
David and Jean Beach	54,746	54,746	0	*
J. Dean and Leatrice M. Caldwell	117,250	102,834	14,416	*
Kenneth H. Gartner and Marilyn J. Gartner JTWROS	173,227	44,961	128,266	*
Marilyn J. Gartner Kenneth H. Gartner JTWROS	173,227	44,961	128,266	*
Christopher K. Gartner	23,622	6,131	17,491	*

Corey P. Gartner	23,622	6,131	17,491	*
Jerald L. Hellwig	173,199	173,199	0	*
Earl D. Bohlen Living Trust	82,728	82,728	0	*
Helen L. Bohlen Living Trust	82,727	82,727	0	*
South Point Apartments, LLC	22,573	22,223	350	*

(1) Represents common shares currently owned by and registered in the name of the selling shareholder or issuable in exchange for an equal number of currently redeemable LP Units owned by the selling shareholder, including the LP Units to be redeemed for common shares covered by this prospectus.

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(2) Assumes that all LP Units to be redeemed for common shares covered by this prospectus are exchanged for common shares and that all such common shares are being resold pursuant to this prospectus.

(3) Assumes the sale of all of the common shares covered by this prospectus and issued upon redemption of LP Units. The selling shareholders may, however, sell all, some or none of the common shares covered by this prospectus and issued upon redemption of LP Units and, to our knowledge, as of the date of this prospectus, there are no agreements, arrangements or understandings with respect to the sale of such common shares.

* Less than one percent.

PLAN OF DISTRIBUTION

This prospectus relates to the possible offer and resale by the selling shareholders named herein of up to 4,415,860 common shares if, and to the extent that, such selling shareholders, who are the holders of an equal number of LP Units, submit such LP Units for redemption and we issue common shares in exchange for such redeemed LP Units. We will not receive any proceeds from any issuance of common shares in exchange for LP Units.

We are registering the common shares covered by this prospectus for resale pursuant to our obligations under the LP Agreement in order to provide the transferees of the selling shareholders with freely tradable securities. Registration does not, however, necessarily mean that any LP Units will be submitted for redemption or that any of the common shares to be issued upon such redemption will be offered or sold by the selling shareholders.

The selling shareholders, or their pledgees, donees, transferees or other successors in interest, may offer and sell the common shares covered by this prospectus in the following manner:

- on the New York Stock Exchange or other quotation system or national exchange on which our common shares are listed or traded at the time of sale;
- in the over-the-counter market;
- in privately negotiated transactions;
- in underwritten transactions; or
- otherwise, at prices then prevailing or related to the then current market price or at negotiated prices.

The offering price of the common shares covered by this prospectus and offered from time to time will be determined by the selling shareholders and, at the time of determination, may be higher or lower than the market price of the common shares on the New York Stock Exchange.

In connection with an underwritten offering, underwriters or agents may receive compensation in the form of discounts, concessions or commissions from a selling shareholder or from purchasers of offered common shares for whom they may act as agents, and underwriters may sell offered common shares to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from the purchasers from whom they may act as agents.

Offered common shares may be sold directly or through broker-dealers acting as principal or agent, or pursuant to a distribution by one or more underwriters on a firm commitment or best-efforts basis. The methods by which offered common shares may be sold include:

- a block trade in which the broker-dealer so engaged will attempt to sell offered common shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by such broker-dealer for its own account pursuant to this prospectus;
- ordinary brokerage transactions and transactions in which the broker solicits purchases;
- an exchange distribution in accordance with the rules of the exchange or quotation system;
- privately negotiated transactions; and
- underwritten transactions.

The selling shareholders and any underwriters, dealer or agents participating in the distribution of offered common shares may be deemed to be underwriters within the meaning of the Securities Act. Any profit on the sale

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of offered common shares by the selling shareholders and any commissions received by any such broker-dealers may be deemed to be underwriting commissions under the Securities Act.

When a selling shareholder elects to make a particular offer of common shares, a prospectus supplement, if required, will be distributed that identifies any underwriters, dealers or agents and any discounts, commissions and other terms constituting compensation from such selling shareholder and any other required information.

In order to comply with state securities laws, if applicable, offered common shares may be sold only through registered or licensed brokers or dealers. In addition, in certain states, offered common shares may not be sold unless they have been registered or qualified for sale in such state or an exemption from such registration or qualification requirement is available and complied with.

We have agreed to pay all costs and expenses incurred in connection with the registration under the Securities Act of the common shares covered by this prospectus, including, but not limited to, all registration and filing fees, printing expenses and fees and disbursements of our legal counsel and accountants. The selling shareholders will pay any brokerage fees and commissions, fees and disbursements of legal counsel for the selling shareholders and stock transfer and other taxes attributable to the sale of common shares covered by this prospectus.

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DESCRIPTION OF SHARES OF BENEFICIAL INTEREST

The following is a summary of the material terms of our common shares of beneficial interest. This summary is not a complete legal description of the common shares offered by this prospectus or our Series A and Series B preferred shares and is qualified in its entirety by reference to our Articles of Amendment and Third Restated Declaration of Trust (including the Articles Supplementary classifying and designating our Series A preferred shares and our Series B preferred shares)(collectively referred to as our Declaration of Trust), and our Fourth Restated Trustee s Regulations (Bylaws) (Bylaws). We have filed copies of our Declaration of Trust and our Bylaws with the SEC and have incorporated by reference such documents as exhibits to the registration statement of which this prospectus is a part.

General

We are authorized, under our Declaration of Trust, to issue an unlimited number of our shares of beneficial interest. Our board of trustees is authorized, under our Declaration of Trust, to provide for the issuance of shares of beneficial interest upon terms and conditions and pursuant to agreements as the board of trustees may determine and, further, to establish by resolution more than one class or series of shares of beneficial interest and to fix the relative rights and preferences of these different classes or series. The rights and preferences of any class or series of shares of beneficial interest will be stated in the articles supplementary to our Declaration of Trust establishing the terms of that class or series adopted by our board of trustees and will become part of our Declaration of Trust. As of June 15, 2016, our authorized shares of beneficial interest consisted of an unlimited number of common shares, of which 121,091,249 were issued and outstanding, an unlimited number of Series A preferred shares, of which 1,150,000 were issued and outstanding, and an unlimited number of Series B preferred shares, of which 4,600,000 were issued and outstanding.

The voting and distribution rights of the holders of common shares are subject to the prior rights of the holders of our Series A preferred shares, our Series B preferred shares and any other subsequently-issued classes or series of preferred shares. Unless otherwise required by applicable law or regulation, other classes or series of preferred shares are issuable without further authorization by holders of the common shares and on such terms and for such consideration as may be determined by our board of trustees. Other classes or series of preferred shares may have varying voting rights, redemption and conversion features, distribution (including liquidating distribution) rights and preferences, and other rights, including rights of approval of specified transactions. Any subsequently-issued class or series of preferred shares could be given rights that are superior to rights of holders of common shares and a class or series having preferential distribution rights could limit common share distributions and reduce the amount holders of common shares would otherwise receive on dissolution.

Ownership and Transfer Restrictions

Our Declaration of Trust contains provisions that are intended to help preserve our status as a REIT for federal income tax purposes. Specifically, our Declaration of Trust provides that any transaction, other than a transaction entered into through the New York Stock Exchange or other similar exchange, that would result in our disqualification as a REIT under Section 856 of the Code, including any transaction that would result in (i) a person owning shares of beneficial interest in excess of the ownership limit, which as of the date of this prospectus is 9.8%, in number or value, of our outstanding shares of beneficial interest, (ii) less than 100 people owning our shares of beneficial interest, (iii) us being closely held, or (iv) 50% or more of the fair market value of our shares of beneficial interest being held by persons other than United States persons, will be void ab initio. If such transaction is not void ab initio, then the shares of beneficial interest that are in excess of the ownership limit, that would cause us to be closely held, that would result in 50% or more of the fair market value of our shares of beneficial interest to be held by persons other than United States persons or that otherwise would result in our disqualification as a REIT, would automatically be exchanged for an equal number of excess shares, and these excess shares will be transferred to an excess share trustee for the

exclusive benefit of the charitable beneficiaries named by our board of trustees.

In such event, any distributions on excess shares will be paid to the excess share trust for the benefit of the charitable beneficiaries. The excess share trustee will be entitled to vote the excess shares, if applicable, on any matter. The excess share trustee may only transfer the excess shares held in the excess share trust as follows:

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- if shares of beneficial interest were transferred to the excess share trustee due to a transaction or event that would have caused a violation of the ownership limit or would have caused us to be closely held then, at the direction of our board of trustees, the excess share trustee will transfer the excess shares to the person who makes the highest offer for the excess shares, pays the purchase price and whose ownership will not violate the ownership limit or cause us to be closely held; or

- if excess shares were transferred to the excess share trustee due to a transaction or event that would have caused persons other than United States persons to own more than 50% of the value of our shares of beneficial interest then, at the direction of our board of trustees, the excess share trustee will transfer the excess shares to the United States person who makes the highest offer for the excess shares and pays the purchase price.

We have certain rights to purchase excess shares from the excess share trustee and must have waived these rights prior to a transfer as described above.

Common Shares

General. Our Declaration of Trust authorizes the issuance of an unlimited number of our common shares. As of June 15, 2016, there were 121,091,249 of our common shares outstanding and 16,285,239 of our common shares potentially issuable upon exchange, in our sole description, of previously issued LP Units, on a one-for-one basis, upon holders exercise of certain redemption rights under the LP Agreement, and there were no warrants, options or other contractual arrangements, other than the LP Units, requiring the issuance of our common shares or any other shares of beneficial interest.

All of our common shares covered by this prospectus will be duly authorized, fully paid and nonassessable when exchanged for LP Units in accordance with the terms of the LP Agreement.

Voting Rights. Subject to the provisions of our Declaration of Trust regarding the restriction on the transfer of our common shares, our common shares have non-cumulative voting rights at the rate of one vote per common share on all matters submitted to the shareholders, including the election of members of our board of trustees.

Our Declaration of Trust generally provides that whenever any action is to be taken by the holders of our common shares, including the amendment of our Declaration of Trust if such amendment is previously approved by our board of trustees, such action will be authorized by a majority of the voting power of the holders of our common shares present in person or by proxy at a meeting at which a quorum is present, except as otherwise required by law, our Declaration of Trust or our Bylaws. Our Declaration of Trust further provides the following:

(i) that the following actions will be authorized by the affirmative vote of the holders of our common shares holding common shares possessing a majority of the voting power of our common shares then outstanding and entitled to vote on such action:

- our termination;
- our merger with or into another entity;
- our consolidation with one or more other entities into a new entity;
- the disposition of all or substantially all of our assets; and
- the amendment of the Declaration of Trust, if such amendment has not been previously approved by our board of trustees.

(ii) that a member of our board of trustees may be removed with or without cause by the holders of our common shares by the affirmative vote of not less than two-thirds of our common shares then outstanding and entitled to vote on such matter.

Our Declaration of Trust also permits our board of trustees, by a two-thirds vote and without any action by the holders of our common shares, to amend our Declaration of Trust from time to time as necessary to enable us to continue to qualify as a REIT under the Code.

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Dividend, Distribution, Liquidation and Other Rights. Subject to the preferential rights of our Series A preferred shares and Series B preferred shares, any other preferred shares of beneficial interest that we may issue in the future and the provisions of the Declaration of Trust regarding the restriction on the transfer of our common shares, holders of our common shares are entitled to receive dividends on their common shares if, as and when authorized and declared by our board of trustees and to share ratably in our assets legally available for distribution to our shareholders in the event of our liquidation, dissolution or winding up after payment of, or adequate provision for, all known debts and liabilities. Our common shares have equal dividend, distribution, liquidation and other rights. Our common shares have no preference, conversion, exchange, sinking fund or redemption rights.

Listing. Our common shares are listed on the New York Stock Exchange under the symbol IRET.

Transfer Agent and Registrar. American Stock Transfer & Trust Company, LLC acts as transfer agent and registrar with respect to our common shares.

Series A Preferred Shares

General. Our Declaration of Trust authorizes the issuance of an unlimited number of our Series A preferred shares. As of June 20, 2016, there were 1,150,000 of our Series A preferred shares outstanding, and there were no warrants, options or other contractual arrangements requiring the issuance of additional Series A preferred shares or any other shares of beneficial interest. Unless redeemed, our Series A preferred shares have a perpetual term with no stated maturity date.

Ranking. With respect to the payment of distributions and distribution of our assets and rights upon our liquidation, dissolution or winding up, whether voluntary or involuntary, our Series A preferred shares will rank:

- senior to our common shares and to all other shares of beneficial interest that, by their terms, rank junior to our Series A preferred shares,
- on a parity with all shares of beneficial interest that we issue, the terms of which specifically provide that those shares of beneficial interest rank on a parity with our Series A preferred shares, and
- junior to all shares of beneficial interest issued by us whose senior ranking is consented to as described under Voting Rights below.

Other than our Series B preferred shares, we do not currently have any other shares of beneficial interest outstanding that rank on a parity with, or senior to, our Series A preferred shares.

Distributions. Holders of our Series A preferred shares will be entitled to receive, when, as and if declared by our board of trustees, out of funds legally available for that purpose, cumulative quarterly cash distributions at the rate of 8.25% of the $25.00 liquidation preference per year (equivalent to an annual rate of $2.0625 per Series A preferred share). Distributions on our Series A preferred shares will accrue and be cumulative from and including the date of initial issuance or from and including the day immediately following the most recent date as to which distributions have been paid. Distributions will be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year, or, if not a business day, the succeeding business day (without interest for the intervening period). Distributions will accrue regardless of whether we have earnings, whether we have funds legally available for payment or whether the distributions are declared. The first distribution on our Series A preferred shares was paid on June 30, 2004. Distributions will be computed on the basis of a 360-day year consisting of twelve 30-day months. Each payment of distributions will include distributions accrued to and including the date on which paid. Distributions will be payable to record holders of our Series A preferred shares as they appear in our records at the close of the business on the applicable record date, which will be the 15th day of the calendar month in which the applicable distribution payment date falls or such other date designated by our board of trustees for the payment of distributions that is not more than 30 nor less than 10 days prior to the distribution payment date.

No full distributions will be authorized or paid or set apart for payment on any class or series of shares of beneficial interest ranking, as to distributions, on a parity with our Series A preferred shares unless all accrued distributions on our Series A preferred shares for all past distribution periods and the then current distribution period have been, or contemporaneously are, authorized and paid in full or a sum sufficient for the payment in full of such distributions is set apart for that payment. When distributions are not paid in full (or a sum sufficient for their full

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payment is not so set apart) on our Series A preferred shares and any other class or series of shares of beneficial interest ranking on a parity as to distributions with our Series A preferred shares, all distributions declared upon our Series A preferred shares and any other such shares of beneficial interest will be authorized pro rata so that the amount of distributions authorized per share on our Series A preferred shares and all other such shares of beneficial interest will in all cases bear to each other the same ratio that accrued and unpaid distributions per share on our Series A preferred shares and all other shares of beneficial interest bear to each other.

Except as provided in the immediately preceding paragraph, unless all accrued distributions on our Series A preferred shares for all past distribution periods and the then current distribution period have been, or contemporaneously are, authorized and paid in full or a sum sufficient for the payment in full of such distributions is set apart for payment, no distributions (other than in the form of our common shares or any other shares of beneficial interest ranking junior to our Series A preferred shares as to distributions and upon our liquidation, dissolution or winding up, whether voluntary or involuntary) or other distribution will be authorized, paid or set aside for payment or made upon our common shares or any other shares of beneficial interest ranking junior to, or on a parity with, our Series A preferred shares as to distributions or upon our liquidation, dissolution or winding up, whether voluntary or involuntary, nor will any common shares or any other shares of beneficial interest ranking junior to or on a parity with our Series A preferred shares as to distributions or upon our liquidation, dissolution or winding up, whether voluntary or involuntary, be redeemed, purchased or otherwise acquired for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any such shares of beneficial interest) by us (except by conversion into or exchange for other shares of beneficial interest ranking junior to our Series A preferred shares as to distributions and upon our liquidation, dissolution or winding up, whether voluntary or involuntary, and except for the acquisition of shares of beneficial interest that have been designated as excess shares in accordance with the terms of our Declaration of Trust).

Distributions on our Series A preferred shares will accrue whether or not we have earnings, whether or not there are funds legally available for the payment of the distributions and whether or not the distributions are authorized. Accrued but unpaid distributions on our Series A preferred shares will not bear interest and holders of our Series A preferred shares will not be entitled to any distributions in excess of full accrued distributions as described above. No distributions on our Series A preferred shares will be authorized by our board of trustees or will be paid or set apart for payment by us at such time as the terms and provisions of any agreement of ours, including any agreement relating to our indebtedness, prohibits the authorization, payment or setting apart for payment or provides that the authorization, payment or setting apart for payment would constitute a breach of any agreement or a default under any agreement, or if the authorization, payment or setting apart for payment is restricted or prohibited by law.

Any distribution payment made on our Series A preferred shares will first be credited against the earliest accrued but unpaid distribution due with respect to the shares which remains payable.

Liquidation. In the event of our liquidation, dissolution or winding up, whether voluntary or involuntary, the holders of our Series A preferred shares will be entitled to be paid out of our assets legally available for distribution to the holders of our shares of beneficial interest a liquidation preference of $25.00 per share, plus an amount equal to any accrued and unpaid distributions to and including the date of the liquidation, dissolution or winding up, before any distribution or payment may be made to the holders of our common shares or any other class or series of shares of beneficial interest issued by us ranking junior to our Series A preferred shares as to liquidation rights. In the event that, upon our liquidation, dissolution or winding up, whether voluntary or involuntary, our legally available assets are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series A preferred shares and the corresponding amounts payable on all other classes or series of shares of beneficial interest issued by us ranking on a parity with our Series A preferred shares as to liquidation rights, then the record holders of our Series A preferred shares and all other classes or series of shares of beneficial interest issued by us ranking on a parity with our Series A preferred shares as to liquidation rights will share ratably in any distribution of assets in proportion to the full

liquidating distributions to which they would otherwise be respectively entitled. After payment of the full amount of the liquidating distributions to which they are entitled, the holders of our Series A preferred shares will have no right or claim to any of our remaining assets.

The record holders of our Series A preferred shares will be entitled to written notice of any liquidation, dissolution or winding up. Our consolidation or merger with or into any other trust, partnership, limited liability company, corporation or other entity, or the consolidation or merger of any other trust, partnership, limited liability

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company, corporation or other entity with or into us, will not be deemed to constitute our liquidation, dissolution or the winding up if, following the transaction, our Series A preferred shares remain outstanding as duly authorized shares of beneficial interest of us or any successor entity having the same rights and preferences as prior to the transaction.

Redemption at Our Option. Our Series A preferred shares are redeemable at our option. Additionally, in order to ensure that we remain qualified as a REIT for federal income tax purposes, our Series A preferred shares are subject to the provisions of our Declaration of Trust that provide that Series A preferred shares owned by a shareholder in excess of the ownership limit described in that document will be automatically designated excess shares and be transferred as described above under Ownership and Transfer Restrictions.

At our option upon not less than 30 nor more than 60 days written notice, we may redeem our Series A preferred shares, in whole or in part, at any time or from time to time, for cash at a redemption price of $25.00 per share, plus accrued and unpaid distributions thereon to and including the date of redemption (except as provided below), if any, and without interest. Unless all accrued distributions for all past distribution periods and the then current distribution period on all Series A preferred shares and any other of our shares of beneficial interest ranking on a parity with our Series A preferred shares as to distributions or upon our liquidation, dissolution or winding up, whether voluntary or involuntary, have been, or contemporaneously are, authorized and paid in full or a sum sufficient for the payment in full of such distributions is set apart for payment, no Series A preferred shares or other shares of beneficial interest ranking on a parity will be redeemed unless all outstanding Series A preferred shares and other shares of beneficial interest ranking on a parity are simultaneously redeemed. However, the foregoing will not prevent the purchase or acquisition of Series A preferred shares pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series A preferred shares and other shares of beneficial interest ranking on a parity. If fewer than all of the outstanding Series A preferred shares are to be redeemed, our Series A preferred shares to be redeemed will be determined pro rata (as nearly as practicable without creating fractional shares) or in such other equitable manner prescribed by our board of trustees that will not result in a violation of the restrictions specified above under Ownership and Transfer Restrictions.

We are required to give the holders of our Series A preferred shares prior written notice of redemption of our Series A preferred shares. Notice of redemption will be mailed by us, postage prepaid, not less than 30 days nor more than 60 days prior to the date fixed for redemption, addressed to the respective record holders of our Series A preferred shares to be redeemed at their respective addresses as they appear on our records. No failure to give such notice or defect in the notice or in the mailing of the notice will affect the validity of the proceedings for the redemption of any Series A preferred shares except as to the holder to whom notice was defective or not given. Each notice will state:

- the date fixed for redemption;
- the redemption price, including all accrued and unpaid distributions, if any;
- the number of Series A preferred shares to be redeemed;
- the time, place and manner in which the certificates evidencing our Series A preferred shares are to be surrendered for payment of the redemption price, including the steps that a holder should take with respect to any certificates that have been lost, stolen or destroyed or with respect to uncertificated shares; and
- that distributions on the Series A preferred shares to be redeemed will cease to accrue from and after the redemption date and the shares will no longer be deemed outstanding.

If fewer than all of the outstanding Series A preferred shares are to be redeemed, the notice mailed to each holder will also specify the number of Series A preferred shares to be redeemed from each such holder and the method by which shares will be selected for redemption.

On or after the redemption date, once a record holder of Series A preferred shares to be redeemed surrenders the certificates representing their Series A preferred shares at the place designated in the redemption notice, the redemption price of such Series A preferred shares, including any accrued and unpaid distributions payable, will be paid to the person who surrendered such certificates and each surrendered certificate will be canceled. In the event that fewer than all our Series A preferred shares represented by any certificate are to be redeemed, a new certificate will be issued representing the unredeemed Series A preferred shares.

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At our election, we may, prior to the redemption date, irrevocably deposit the redemption price (including accrued and unpaid distributions) of our Series A preferred shares called for redemption in trust for the holders thereof with a bank or trust company, in which case the notice to holders of our Series A preferred shares to be redeemed will:

- specify the office of such bank or trust company as the place of payment of the redemption price, and
- direct such holders to surrender the certificates representing our Series A preferred shares at such place to receive payment of the redemption price (including all accrued and unpaid distributions to and including the redemption date).

Any monies deposited that remain unclaimed at the end of two years after the redemption date will be returned to us by such bank or trust company and after that time the holder must look to us for payment.

Except as provided above, we will make no payment or allowance for unpaid distributions, whether or not in arrears, on Series A preferred shares to be redeemed.

If notice of redemption of any Series A preferred shares has been given and if the funds necessary for that redemption have been set apart by us in trust for the benefit of the holders of any Series A preferred shares so called for redemption, then from and after the redemption date distributions will cease to accrue on those Series A preferred shares, those Series A preferred shares will no longer be deemed outstanding, those Series A preferred shares will not thereafter be transferred (except with our consent) on our books and all rights of the holders of those Series A preferred shares will terminate, except the right to receive the redemption price (including all accrued and unpaid distributions to and including the redemption date).

Our Series A preferred shares have no stated maturity date and will not be subject to any sinking fund.

Redemption at the Holder s Option. If at any time there has been a change in control (as defined below), each holder of Series A preferred shares will have the right, for a period of 90 days from the date of the change in control, to require us to redeem all or any portion of that holder s Series A preferred shares. Not later than 130 days after the date of the change in control (or, if that date is a Saturday, Sunday or legal holiday, the next day that is not a Saturday, Sunday or legal holiday), we will redeem all Series A preferred shares the holder has elected to have redeemed in a written notice delivered to us on or prior to the 90th day after the change in control. The redemption price will be $25.00 per share, plus accrued and unpaid distributions, if any, to and including the date of redemption.

A change in control will have occurred if any of the following events have taken place:

- any person, entity or affiliated group, other than us or any employee benefit plan sponsored by us, acquires more than 50% of the then outstanding common shares and shares of all other classes or series of shares of beneficial interest upon which like voting rights have been conferred and are exercisable,

- the consummation of any merger or consolidation of us into another company, such that the holders of our common shares and shares of all other classes or series of shares of beneficial interest upon which like voting rights have been conferred and are exercisable immediately prior to such merger or consolidation hold less than 50% of the voting power of the securities of the surviving company or the parent of such surviving company, or

- our liquidation, dissolution or winding up, whether voluntary or involuntary, or the sale or disposition of all or substantially all of our assets, such that after the transaction, the holders of our common shares and shares of all other classes or series of shares of beneficial interest upon which like voting rights have been conferred and are exercisable immediately prior to the transaction hold less than 50% of the voting securities of the acquiror or the parent of the acquiror.

There is no precise, established definition of the term all or substantially all of our assets under applicable law and accordingly there may be uncertainty as to whether the foregoing provision would apply to a sale of less than all of our assets.

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Voting Rights. Except as indicated below, the holders of our Series A preferred shares will not have any voting rights other than as required by applicable law. On any matter on which our Series A preferred shares are entitled to vote, including any action by written consent, each Series A preferred share will be entitled to one vote.

Whenever distributions payable on our Series A preferred shares are in arrears for six or more quarterly periods, whether or not consecutive, holders of our Series A preferred shares (voting together as a class with holders of all other classes or series of shares of beneficial interest ranking on a parity with our Series A preferred shares as to distributions and upon our liquidation, dissolution or winding up, whether voluntary or involuntary, upon which like voting rights have been conferred and are exercisable) will be entitled to elect two additional trustees to serve on our board of trustees, who will be elected for one-year terms (subject to earlier termination as described below). Such election will be at a special meeting called by the record holders of at least 10% of the Series A preferred shares or the record holders of any other class or series of shares of beneficial interest upon which like voting rights have been conferred and are exercisable (or at our next special meeting or annual meeting if notice of such meeting is given less than 90 days before our next special meeting or annual meeting) and each subsequent annual meeting until all of the distributions on the Series A preferred shares and all other classes of our shares of beneficial interest upon which like voting rights have been conferred and are exercisable for the past distribution periods and the then current distribution period have been fully paid or authorized and a sum sufficient for payment thereof set aside in full. Election will require a vote of the holders of a majority of the Series A preferred shares and shares of all other classes or series of our shares of beneficial interest upon which like voting rights have been conferred and are exercisable then outstanding, voting as a single class. Upon such election, the size of our board of trustees will be increased by two trustees. If and when all such accumulated distributions have been paid on the Series A preferred shares and all other classes or series of shares of beneficial interest upon which like voting rights have been conferred and are exercisable, the term of office of each of the additional trustees so elected will terminate and the size of our board of trustees will be reduced accordingly. So long as a distribution default continues, any vacancy in the office of additional trustees elected as described in this paragraph may be filled by written consent of the other additional trustee who remains in office or, if no additional trustee remains in office, by a vote of the holders of a majority of the Series A preferred shares and shares of all other classes or series of our shares of beneficial interest upon which like voting rights have been conferred and are exercisable then outstanding, voting as a single class. Each of the trustees elected as described in this paragraph will be entitled to one vote on any matter.

The affirmative vote or consent of the holders of at least two-thirds of the then outstanding Series A preferred shares and shares of each other class or series of shares of beneficial interest ranking on a parity with respect to the payment of distributions or the distribution of assets upon our liquidation, dissolution or winding up, whether voluntary or involuntary, that is similarly affected, voting as a single class, will be required to:

- authorize or create (including by reclassification), or increase the authorized or issued amount of, any class or series of shares of beneficial interest, or any obligation or security convertible into, exchangeable for or evidencing the right to purchase or otherwise acquire any shares of any class or series of shares of beneficial interest, that rank senior to those classes and series of our preferred shares of beneficial interest with respect to payment of distributions or the distribution of assets upon our liquidation, dissolution or winding up, whether voluntary or involuntary; or

- amend, alter or repeal the provisions of our Declaration of Trust or the articles supplementary, whether by merger, consolidation, share exchange or otherwise, or consummate a merger, consolidation, share exchange or transfer involving us, in either case so as to materially and adversely affect any right, preference, privilege or voting power of the holders of the affected classes or series.

With respect to any of the events described in the preceding paragraph, the occurrence of any such event will not be deemed to materially adversely affect any right, preference, privilege or voting power of any class or series of shares of beneficial interest or the holders of such shares if, immediately after any such event:

- we are the surviving entity and there are no outstanding shares of beneficial interest ranking, as to the payment of distributions or the distribution of assets upon our liquidation, dissolution or winding up, whether voluntary or involuntary, senior to the affected series or series or class or classes other than shares of beneficial interest outstanding immediately prior to such event the terms of which remain unchanged and remain outstanding and the terms of those shares of beneficial interest remain unchanged; or

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- we are not the surviving entity and as a result of the event, the holders of the affected series or series or class or classes receive shares of equity securities with preferences, rights and privileges substantially similar to the preferences, rights and privileges of the affected series or series or class or classes and there are no outstanding shares of equity securities of the surviving entity ranking, as to the payment of distributions or the distribution of assets upon our liquidation, dissolution or winding up, whether voluntary or involuntary, senior to the affected series or series or class or classes other than equity securities issued in respect of shares of beneficial interest outstanding immediately prior to such event the terms of which are substantially similar to the terms immediately prior to such event.

Except as may be required by law, holders of our Series A preferred shares will not be entitled to vote with respect to (i) the authorization or issuance of shares of beneficial interest ranking on a parity with or junior to our Series A preferred shares with respect to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up, whether voluntary or involuntary; or (ii) any increase, decrease or issuance of any of our Series A preferred shares or other shares of beneficial interest ranking on a parity with or junior to our Series A preferred shares with respect to the payment of distributions and the distribution of assets upon our liquidation, dissolution or winding up, whether voluntary or involuntary. Except as provided above and required by law, the holders of Series A preferred shares are not entitled to vote on any merger or consolidation involving us, on any share exchange or on a sale of all or of substantially all of our assets.

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

Conversion. Our Series A preferred shares are not convertible into or exchangeable for any other securities or property, except that, in limited circumstances, our Series A preferred shares may be automatically converted into or exchanged for excess shares. See Ownership and Transfer Restrictions above.

Listing. Our Series A preferred shares are listed on the New York Stock Exchange under the symbol IRET PR .

Transfer Agent. American Stock Transfer & Trust Company, LLC acts as transfer agent, registrar and distribution disbursing agent with respect to our Series A preferred shares.

Series B Preferred Shares

General. Our Declaration of Trust authorizes the issuance of an unlimited number of our Series B preferred shares. As of June 20, 2016, there were 4,600,000 of our Series B preferred shares outstanding, and there were no warrants, options or other contractual arrangements requiring the issuance of additional Series B preferred shares or any other shares of beneficial interest. Unless redeemed, our Series B preferred shares have a perpetual term with no stated

maturity date.

Ranking. The Series B preferred shares rank senior to our common shares and any class or series of our junior equity securities, pari passu with any of our parity equity securities, including our Series A preferred shares, and junior to any class or series of our senior equity securities. The affirmative vote of the holders of at least two-thirds of the outstanding Series B preferred shares at the time and all of our parity equity securities upon which like voting rights have been conferred and are exercisable (voting together as a single class) is required for us to authorize, create or increase the number of any class or series of senior equity securities. Any convertible or exchangeable debt securities that we may issue will not be considered to be equity securities for these purposes. The Series B preferred shares will rank junior in right of payment to all of our existing and future indebtedness.

Distributions. Subject to the preferential rights of holders of any class or series of our senior equity securities, holders of Series B preferred shares are entitled to receive, when, as and if authorized by our Board of Trustees, out of funds legally available for the payment of distributions, cumulative cash distributions at the rate of 7.95% per annum of the $25.00 per share liquidation preference, equivalent to $1.9875 per annum per Series B preferred share.

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Distributions on the Series B preferred shares will accrue and be cumulative from, but excluding, the original date of issuance of any Series B preferred shares and will be payable quarterly in arrears on or about the last day of March, June, September and December of each year. Distributions payable on the Series B preferred shares for any partial period will be computed on the basis of a 360-day year consisting of twelve 30-day months. We will pay distributions to holders of record as they appear in our share records at the close of business on the applicable record date, which will be the fifteenth day of the calendar month in which the applicable distribution payment date falls, or such other date as designated by our board of trustees for the payment of distributions that is not more than 90 days nor fewer than 10 days prior to the distribution payment date.

Our board of trustees will not authorize, and we will not pay, any distributions on the Series B preferred shares or set aside funds for the payment of distributions if the terms of any of our agreements, including agreements relating to our indebtedness, prohibit that authorization, payment or setting aside of funds or if the authorization, payment or setting aside of funds would constitute a breach of or a default under any such agreement, or if the authorization, payment or setting aside of funds is restricted or prohibited by law. We are and may in the future become a party to agreements that restrict or prevent the payment of distributions on, or the purchase or redemption of, our shares. Under certain circumstances, these agreements could restrict or prevent the payment of distributions on or the purchase or redemption of Series B preferred shares. These restrictions may be indirect (for example, covenants requiring us to maintain specified levels of net worth or assets) or direct. We do not believe that these restrictions currently have any adverse impact on our ability to pay distributions on the Series B preferred shares.

Notwithstanding the foregoing, distributions on the Series B preferred shares will accrue whether or not we have earnings, whether or not there are funds legally available for the payment of distributions, whether or not distributions are authorized and whether or not the restrictions referred to above exist. Accrued but unpaid distributions on the Series B preferred shares will not bear interest, and the holders of Series B preferred shares will not be entitled to any distributions in excess of full cumulative distributions as described above. All of our distributions on Series B preferred shares, including any capital gain dividends, will be credited to the previously accrued and unpaid distributions on the Series B preferred shares. We will credit any distribution made on the Series B preferred shares first to the earliest accrued and unpaid distribution due.

We will not declare or pay any distributions (other than in the form of our common shares or any other junior equity securities), or set aside any funds for the payment of distributions, on our common shares or our other junior or parity equity securities, or redeem, purchase or otherwise acquire, or set aside or make available payment for a sinking fund for the redemption of, our common shares or our other junior or parity equity securities, unless we also have declared and either paid or set aside for payment the full cumulative distributions on the Series B preferred shares for all past distribution periods, except by conversion into or exchange for shares of, or options, warrants or rights to purchase or subscribe for, our junior equity securities or pursuant to an exchange offer made on the same terms to all holders of Series B preferred shares and our parity equity securities. This restriction will not limit our redemption or other acquisition of our common shares made for purposes of and in compliance with any incentive, benefit or share purchase plan of ours or for the purposes of enforcing restrictions upon ownership and transfer of our equity securities contained in our Declaration of Trust. Notwithstanding the foregoing, subject to applicable law and the terms of our outstanding indebtedness, we may purchase common shares, Series A preferred shares and Series B preferred shares in the open market from time to time, by tender or by private agreement.

If we do not declare and either pay or set aside for payment the full cumulative distributions on the Series B preferred shares and our parity equity securities, if any, the amount which we declare will be allocated pro rata to the Series B preferred shares and our parity equity securities, if any, so that the amount declared per share is proportionate to the accrued and unpaid distributions on those shares.

Liquidation. In the event of our liquidation, dissolution or winding up, whether voluntary or involuntary, the holders of Series B preferred shares will be entitled to be paid out of our assets legally available for distribution to our shareholders a liquidation preference in cash or property, at fair market value as determined by our board of trustees,

of $25.00 per share, plus any accrued and unpaid distributions to and including the date of the payment. Holders of Series B preferred shares will be entitled to receive this liquidating distribution before we distribute any assets to holders of our common shares and our other junior equity securities, if any, and will be on parity with the rights of holders of our parity equity securities, including our Series A preferred shares. The rights of holders of Series B preferred shares to receive their liquidation preference would be subject to preferential rights of the holders

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of our existing and future indebtedness and our senior equity securities, if any. Written notice will be given to each holder of Series B preferred shares of any such liquidation no fewer than 30 days and no more than 60 days prior to the payment date. After payment of the full amount of the liquidating distribution to which they are entitled, the holders of Series B preferred shares will have no right or claim to any of our remaining assets. If we consolidate or merge with any other entity, sell, lease, transfer or convey all or substantially all of our assets, or engage in a statutory share exchange, we will not be deemed to have liquidated if, following the transaction, the Series B preferred shares remain outstanding as duly authorized shares of beneficial interest of any successor entity having the same rights and preferences as prior to the transaction. In the event our assets are insufficient to pay the full liquidating distributions to the holders of Series B preferred shares and our parity equity securities, then we will distribute our assets to the holders of Series B preferred shares and our parity equity securities, ratably in proportion to the full liquidating distributions they would have otherwise received.

Optional Redemption. We may not redeem the Series B preferred shares prior to August 7, 2017, except as described below under Special Optional Redemption and above under Ownership and Transfer Restrictions. On and after August 7, 2017, upon no fewer than 30 days nor more than 60 days written notice, we may, at our option, redeem the Series B preferred shares, in whole or from time to time in part, by paying $25.00 per share, plus any accrued and unpaid distributions to, but not including, the date of redemption.

If we elect to redeem any or all of the Series B preferred shares, we will mail notice of the redemption to each holder of record of Series B preferred shares at the address shown on our share transfer books. In addition, we will issue a press release regarding the redemption for publication on the Dow Jones & Company, Inc., Business Wire, PR Newswire or Bloomberg Business News (or, if these organizations are not in existence at the time of issuance of the press release, such other news or press organization as is reasonably calculated to broadly disseminate the relevant information to the public), or post the redemption notice on our website, prior to the opening of business on the first business day following the date on which we mail the redemption notice to the holders of record of the Series B preferred shares. A failure to give notice of redemption or any defect in the notice or in its mailing will not affect the validity of the redemption of any Series B preferred shares except as to the holder to whom notice was defective. Each notice will state the following:

- the redemption date;
- the redemption price;
- the number of Series B preferred shares to be redeemed;
- the place or places where the certificates, if any, representing the Series B preferred shares to be redeemed are to be surrendered for payment;
- the procedures for surrendering non-certificated shares for payment; and
- that distributions on the Series B preferred shares to be redeemed will cease to accrue on the redemption date.

If we redeem fewer than all of the Series B preferred shares, the notice of redemption mailed to each shareholder will also specify the number of Series B preferred shares that we will redeem from each shareholder. In this case, we will determine the number of Series B preferred shares to be redeemed on a pro rata basis, by lot or by any other equitable method we may choose in our sole discretion.

If we elect to redeem any of the Series B preferred shares in connection with a Change of Control (as defined below under Special Optional Redemption) and we intend for such redemption to occur prior to the applicable Change of Control Conversion Date (as defined below under Conversion Rights), our redemption notice will also state that the holders of Series B preferred shares to which the notice relates will not be able to tender such Series B preferred shares for conversion in connection with the Change of Control and each Series B Preferred Share tendered for conversion that is selected for redemption prior to the Change of Control Conversion Date will be redeemed on the related date of redemption instead of converted on the Change of Control Conversion Date.

If we have given a notice of redemption and have paid or set aside sufficient funds for the redemption in trust for the benefit of the holders of Series B preferred shares called for redemption, then from and after the redemption date, those Series B preferred shares will be treated as no longer being outstanding, no further distributions will accrue and all other rights of the holders of those Series B preferred shares will terminate. The holders of those

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Series B preferred shares will retain their right to receive the redemption price for their shares and any accrued and unpaid distributions to, but not including, the redemption date.

The holders of Series B preferred shares at the close of business on a distribution record date will be entitled to receive the distribution payable with respect to the Series B preferred shares on the corresponding payment date notwithstanding the redemption of the Series B preferred shares between such record date and the corresponding payment date or our default in the payment of the distribution due. Except as provided above and in connection with a redemption pursuant to our special optional redemption, we will make no payment or allowance for unpaid distributions, whether or not in arrears, on Series B preferred shares to be redeemed.

The Series B preferred shares have no stated maturity and will not be subject to any sinking fund or mandatory redemption provisions. However, in order to ensure that we continue to meet the requirements for qualification as a REIT, the Series B preferred shares will be subject to restrictions on ownership and transfer, as described under Ownership and Transfer Restrictions above.

Subject to applicable law and the terms of our outstanding indebtedness, we may purchase common shares, Series A preferred shares and Series B preferred shares in the open market from time to time. Any Series B preferred shares that we reacquire will return to the status of authorized but unissued shares.

Special Optional Redemption. In the event of a Change of Control, we may, at our option, redeem the Series B preferred shares, in whole or in part and within 120 days after the first date on which such Change of Control occurred, by paying $25.00 per share, plus any accrued and unpaid distributions to, but not including, the date of redemption. If, prior to the Change of Control Conversion Date, we provide or have provided notice of our election to redeem some or all of the Series B preferred shares (whether pursuant to our optional redemption right or our special optional redemption right), the holders of Series B preferred shares will not be permitted to exercise the conversion right described below under Conversion Rights in respect of their shares called for redemption.

If we elect to redeem any or all of the Series B preferred shares, we will mail notice of the redemption to each holder of record of Series B preferred shares at the address shown on our share transfer books no fewer than 30 days nor more than 60 days before the redemption date. In addition, we will issue a press release regarding the redemption for publication on the Dow Jones & Company, Inc., Business Wire, PR Newswire or Bloomberg Business News (or, if these organizations are not in existence at the time of issuance of the press release, such other news or press organization as is reasonably calculated to broadly disseminate the relevant information to the public), or post the redemption notice on our website, prior to the opening of business on the first business day following the date on which we mail the redemption notice to the holders of record of the Series B preferred shares. A failure to give notice of redemption or any defect in the notice or in its mailing will not affect the validity of the redemption of any Series B preferred shares except as to the holder to whom notice was defective. Each notice will state the following:

- the redemption date;
- the redemption price;

- the number of Series B preferred shares to be redeemed;

- the place or places where the certificates, if any, evidencing the Series B preferred shares to be redeemed are to be surrendered for payment;

- the procedures for surrendering non-certificated shares for payment;

- that the Series B preferred shares are being redeemed pursuant to our special optional redemption right in connection with the occurrence of a Change of Control and a brief description of the transaction or transactions constituting such Change of Control;

- that the holders of Series B preferred shares to which the notice relates will not be able to tender such Series B preferred shares for conversion in connection with the Change of Control and each Series B Preferred Share tendered for conversion that is selected, prior to the Change of Control Conversion Date, for redemption will be redeemed on the related date of redemption instead of converted on the Change of Control Conversion Date; and

- that distributions on the Series B preferred shares to be redeemed will cease to accrue on the redemption date.

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If we redeem fewer than all of the Series B preferred shares, the notice of redemption mailed to each shareholder will also specify the number of Series B preferred shares that we will redeem from each shareholder. In this case, we will determine the number of Series B preferred shares to be redeemed on a pro rata basis, by lot or by any other equitable method we may choose.

If we have given a notice of redemption and have paid or set aside sufficient funds for the redemption in trust for the benefit of the holders of Series B preferred shares called for redemption, then from and after the redemption date, those Series B preferred shares will be treated as no longer being outstanding, no further distributions will accrue and all other rights of the holders of those Series B preferred shares will terminate. The holders of those Series B preferred shares will retain their right to receive the redemption price for their shares and any accrued and unpaid distributions to, but not including, the redemption date.

The holders of Series B preferred shares at the close of business on a distribution record date will be entitled to receive the distribution payable with respect to the Series B preferred shares on the corresponding payment date notwithstanding the redemption of the Series B preferred shares between such record date and the corresponding payment date or our default in the payment of the distribution due. Except as provided above, we will make no payment or allowance for unpaid distributions, whether or not in arrears, on Series B preferred shares to be redeemed.

A Change of Control is when, after the original issuance of the Series B preferred shares, the following have occurred and are continuing:

- the acquisition by any person, including any syndicate or group deemed to be a person under Section 13(d)(3) of the Exchange Act, of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of purchases, mergers or other acquisition transactions of our shares entitling that person to exercise more than 50% of the total voting power of all our shares entitled to vote generally in elections of trustees (except that such person will be deemed to have beneficial ownership of all securities that such person has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition); and

- following the closing of any transaction referred to in the bullet point above, neither we nor the acquiring or surviving entity has a class of common securities (or ADRs representing such securities) listed on the NYSE, the NYSE MKT or Nasdaq or listed or quoted on an exchange or quotation system that is a successor to the NYSE, the NYSE MKT or Nasdaq.

Voting Rights. Holders of Series B preferred shares generally have no voting rights, except as set forth below. In any matter in which the holders of Series B preferred shares are entitled to vote separately as a single class, each Series B Preferred Share will be entitled to one vote. If the holders of Series B preferred shares and any other of our parity equity securities are entitled to vote together as a single class on any matter, the Series B preferred shares and the shares of any other of our parity equity securities will have one vote for each $25.00 of liquidation preference.

Whenever distributions on the Series B preferred shares are in arrears for six quarterly periods, whether or not consecutive (a Preferred Distribution Default), the number of trustees then constituting our board of trustees will be increased by two and holders of Series B preferred shares and any other parity equity securities upon which like voting rights have been conferred and are exercisable, including the Series A preferred shares, will be entitled to vote (voting together as a single class) for the election of two additional trustees to serve on our board of trustees (the Preferred Share Trustees). The election of the Preferred Share Trustees will occur at a special meeting called by the holders of at least 10% of the outstanding Series B preferred shares or any other parity equity securities upon which like voting rights have been conferred and are exercisable if the request is received 90 or more days before the next annual meeting of shareholders, or, if the request is received less than 90 days before the date fixed for the next annual or special meeting of shareholders, at the next annual or special meeting of shareholders, and at each subsequent annual meeting of shareholders until all distributions accumulated on the Series B preferred shares for the past distribution periods and the then-current distribution period have been paid or declared and set aside for payment in full. Each Preferred Share Trustee will be elected by a majority of the outstanding Series B preferred shares and our parity equity securities upon which like voting rights have been conferred and are exercisable (voting together as a single class) in the election to serve until our next annual meeting of shareholders and until such

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trustee s successor is duly elected and qualified or until such trustee s right to hold the office terminates as described below, whichever occurs earlier.

If and when all accumulated distributions in arrears for all past distribution periods and distributions for the then-current distribution period on the Series B preferred shares shall have been paid in full or a sum sufficient for the payment is set aside, the holders of Series B preferred shares will immediately be divested of the voting rights described above (subject to revesting in the event of each and every Preferred Distribution Default) and, if all accumulated distributions in arrears and the distributions for the then-current distribution period have been paid in full or set aside for payment in full on all our parity equity securities upon which like voting rights have been conferred and are exercisable, the term of office of each Preferred Share Trustee so elected will immediately terminate. Any Preferred Share Trustee may be removed at any time, with or without cause, by the vote of, and shall not be removed otherwise than by the vote of, the holders of record of at least two-thirds of the outstanding Series B preferred shares when they have the voting rights described above and any other parity equity securities upon which like voting rights have been conferred and are exercisable, including our Series A preferred shares (voting together as a single class). So long as a Preferred Distribution Default continues, any vacancy in the office of a Preferred Share Trustee may be filled by written consent of the Preferred Share Trustee remaining in office or, if none remains in office, by a vote of the holders of record of the outstanding Series B preferred shares when they have the voting rights described above and all our parity equity securities upon which like voting rights have been conferred and are exercisable (voting together as a single class). Each Preferred Share Trustee will be entitled to one vote on any matter.

So long as any Series B preferred shares remain outstanding, we will not, without the affirmative vote or consent of the holders of at least two-thirds of the then-outstanding Series B preferred shares and our other parity equity securities, including the Series A preferred shares (voting together as a single class):

- authorize or create (including by reclassification), or increase the authorized or issued amount of, any class or series of senior equity securities, or reclassify any authorized shares into any such senior equity securities, or create, authorize or issue any obligation or security convertible into, exchangeable for or evidencing the right to purchase or otherwise acquire any such senior equity securities; or

- amend, alter or repeal the provisions of our Declaration of Trust, whether by merger, consolidation, share exchange or otherwise, or consummate a merger, consolidation, share exchange or transfer involving us, so as to materially and adversely affect any right, preference, privilege or voting power of the Series B preferred shares or any of our parity equity securities, except that if such amendment, alteration or repeal of provisions of our Declaration of Trust materially and adversely affect any right, preference, privilege or voting power of the Series B preferred shares disproportionately relative to any of our other parity equity securities, the affirmative vote or consent of the holders of at least two-thirds of the then-outstanding Series B preferred shares (voting separately as a single class) shall be required.

Notwithstanding the preceding sentence, with respect to the occurrence of a merger or consolidation, if there are no senior equity securities (or, if applicable, equity securities of the surviving entity that rank, as to the payment of distributions or upon the liquidation, dissolution or winding up of the surviving entity, senior to our Series A preferred shares, Series B preferred shares or any other of our parity equity securities) outstanding after any such merger or consolidation that were not outstanding immediately prior to such merger or consolidation, so long as (i) the Series B preferred shares or any other of our parity equity securities remain outstanding with the terms thereof materially unchanged or (ii) the holders of Series B preferred shares and any other of our parity equity securities receive shares with rights, preferences, privileges and voting powers substantially the same as those of the Series B preferred shares or any other of our parity equity securities, as applicable, then, the

occurrence of any such merger or consolidation will not be deemed to materially adversely affect any right, privilege or voting power of the Series B preferred shares or any other of our parity equity securities, or the holders thereof. In addition, any increase in the amount of authorized Series B preferred shares, the issuance of additional Series B preferred shares or the creation or issuance, or increase in the amounts authorized, of any other of our parity equity securities, will not be deemed to materially and adversely affect the rights, preferences, privileges or voting powers of the Series B preferred shares.

Conversion. Upon the occurrence of a Change of Control, each holder of Series B preferred shares will have the right (subject to our right to redeem the Series B preferred shares in whole or in part, as described under

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Redemption, prior to the Change of Control Conversion Date) to convert some or all of the Series B preferred shares held by such holder (the Change of Control Conversion Right) on the Change of Control Conversion Date into a number of our common shares per share of Series B preferred shares (the Common Share Conversion Consideration) equal to the lesser of:

- the quotient obtained by dividing (i) the sum of the $25.00 liquidation preference plus the amount of any accrued and unpaid distributions to, but not including, the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a record date for a Series B Preferred Share distribution payment and prior to the corresponding Series B Preferred Share distribution payment date, in which case no additional amount for such accrued and unpaid distribution will be included in this sum) by (ii) the Common Share Price; and

- 6.1425 (the Share Cap).

The Share Cap is subject to pro rata adjustments for any share splits (including those effected pursuant to a distribution of our common shares), subdivisions or combinations (in each case, a Share Split) with respect to our common shares. The adjusted Share Cap as the result of a Share Split will be the number of our common shares that is equivalent to the product obtained by multiplying (i) the Share Cap in effect immediately prior to such Share Split by (ii) a fraction, (a) the numerator of which is the number of our common shares outstanding after giving effect to such Share Split and (b) the denominator of which is the number of our common shares outstanding immediately prior to such Share Split.

In the case of a Change of Control pursuant to which our common shares will be converted into cash, securities or other property or assets (including any combination thereof) (the Alternative Form Consideration), a holder of Series B preferred shares will receive upon conversion of such Series B preferred shares the kind and amount of Alternative Form Consideration which such holder would have owned or been entitled to receive upon the Change of Control had such holder held a number of our common shares equal to the Common Share Conversion Consideration immediately prior to the effective time of the Change of Control (the Alternative Conversion Consideration, and the Common Share Conversion Consideration or the Alternative Conversion Consideration, as may be applicable to a Change of Control, is referred to as the Conversion Consideration).

If the holders of our common shares have the opportunity to elect the form of consideration to be received in the Change of Control, the consideration that the holders of Series B preferred shares will receive will be the form and proportion of the aggregate consideration elected by the holders of our common shares who participate in the determination (based on the weighted average of elections) and will be subject to any limitations to which all holders of our common shares are subject, including, without limitation, pro rata reductions applicable to any portion of the consideration payable in the Change of Control.

We will not issue fractional common shares upon the conversion of the Series B preferred shares. Instead, we will pay the cash value of such fractional shares based on the Common Share Price.

Within 15 days following the occurrence of a Change of Control, we will provide to holders of record of Series B preferred shares a notice of occurrence of the Change of Control that describes the resulting Change of Control Conversion Right. This notice will state the following:

- the events constituting the Change of Control;
- the date of the Change of Control;
- the last date on which the holders of Series B preferred shares may exercise their Change of Control Conversion Right;
- the method and period for calculating the Common Share Price;
- the Change of Control Conversion Date;
- that if, prior to the Change of Control Conversion Date, we provide or have provided notice of our election to redeem all or any portion of the Series B preferred shares, holders will not be able to convert Series B preferred shares and such shares will be redeemed on the related redemption date, even if such shares have already been tendered for conversion pursuant to the Change of Control Conversion Right;

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- if applicable, the type and amount of Alternative Conversion Consideration entitled to be received per Series B Preferred Share;
- the name and address of the paying agent and the conversion agent; and
- the procedures that the holders of Series B preferred shares must follow to exercise the Change of Control Conversion Right.

We also will issue a press release generally describing the above information for publication on the Dow Jones & Company, Inc., Business Wire, PR Newswire or Bloomberg Business News (or, if these organizations are not in existence at the time of issuance of the press release, such other news or press organization as is reasonably calculated to broadly disseminate the relevant information to the public), or post notice on our website, in any event prior to the opening of business on the first business day following any date on which we provide the notice described above to the holders of Series B preferred shares.

To exercise the Change of Control Conversion Right, a holder of Series B preferred shares will be required to deliver, on or before the close of business on the Change of Control Conversion Date, the certificates (if any) evidencing Series B preferred shares to be converted, duly endorsed for transfer, together with a written, completed conversion notice to our transfer agent. The conversion notice must state:

- the relevant Change of Control Conversion Date;
- the number or percentage of Series B preferred shares to be converted; and
- that the Series B preferred shares are to be converted pursuant to the applicable provisions of the Series B preferred shares.

The Change of Control Conversion Date is the date the Series B preferred shares are to be converted, which will be a business day that is no fewer than 20 days nor more than 35 days after the date on which we provide the notice described above to the holders of Series B preferred shares.

The Common Share Price will be: (i) the amount of cash consideration per common share, if the consideration to be received in the Change of Control by the holders of our common shares is solely cash; and (ii) the average of the closing prices for our common shares on Nasdaq or the NYSE, as the case may be, for the ten consecutive trading days immediately preceding, but not including, the effective date of the Change of Control, if the consideration to be received in the Change of Control by the holders of our common shares is other than solely cash.

Holders of Series B preferred shares may withdraw any notice of exercise of a Change of Control Conversion Right (in whole or in part) by a written notice of withdrawal delivered to our transfer agent prior to the close of business on the business day prior to the Change of Control Conversion Date. The notice of withdrawal must state:

- the number of withdrawn Series B preferred shares;

- if certificated Series B preferred shares have been issued, the certificate numbers of the withdrawn Series B preferred shares; and

- the number of Series B preferred shares, if any, which remain subject to the conversion notice.

Notwithstanding the foregoing, if the Series B preferred shares are held in global form, the conversion notice and/or the notice of withdrawal, as applicable, must comply with applicable procedures of DTC.

Series B preferred shares as to which the Change of Control Conversion Right has been properly exercised and for which the conversion notice has not been properly withdrawn will be converted into the applicable Conversion Consideration in accordance with the Change of Control Conversion Right on the Change of Control Conversion Date, unless prior to the Change of Control Conversion Date we provide or have provided notice of our election to redeem such Series B preferred shares, whether pursuant to our optional redemption right or our special optional redemption right. Holders of Series B preferred shares will not have the right to convert any shares that we have elected to redeem prior to the Change of Control Conversion Date. Accordingly, if we have provided a redemption notice with respect to some or all of the Series B preferred shares, holders of any Series B preferred shares that we have called for redemption will not be permitted to exercise their Change of Control Conversion Right in respect of any of their shares that have been called for redemption, and such Series B preferred shares will not be so converted

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and the holders of such shares will be entitled to receive on the applicable redemption date $25.00 per share, plus any accrued and unpaid distributions thereon to, but not including, the redemption date.

We will deliver amounts owing upon conversion no later than the third business day following the Change of Control Conversion Date. In connection with the exercise of any Change of Control Conversion Right, we will comply with all federal and state securities laws and stock exchange rules in connection with any conversion of Series B preferred shares into our common shares. Notwithstanding any other provision of the Series B preferred shares, no holder of Series B preferred shares will be entitled to convert such Series B preferred shares into our common shares to the extent that receipt of such common shares would cause such holder (or any other person) to exceed the share ownership limits contained in our Declaration of Trust and the articles supplementary setting forth the terms of the Series B preferred shares, unless we provide an exemption from this limitation for such holder. See Ownership and Transfer Restrictions above.

These Change of Control conversion and redemption features may make it more difficult for a party to take us over or discourage a party from taking us over. See Risk Factors You may not be permitted to exercise conversion rights upon a change of control. If exercisable, the change of control conversion feature of the Series B preferred shares may not adequately compensate you, and the change of control conversion and redemption features of the Series B preferred shares may make it more difficult for a party to take over the Trust or discourage a party from taking over the Trust.

Except as provided above in connection with a Change of Control, the Series B preferred shares are not convertible into or exchangeable for any other securities or property.

Listing. Our Series B preferred shares are listed on the New York Stock Exchange under the symbol IRET PRB .

Transfer Agent. American Stock Transfer & Trust Company, LLC acts as transfer agent, registrar and distribution disbursing agent with respect to our Series B preferred shares.

DESCRIPTION OF LP UNITS AND

THE AGREEMENT OF LIMITED PARTNERSHIP OF IRET PROPERTIES

The following is a summary of the material terms of the LP Units, including a summary of certain provisions of the LP Agreement. This summary is not a complete legal description of the LP Units and is qualified in its entirety by reference to the applicable provisions of North Dakota law and the LP Agreement. For a comparison of the rights of holders of LP Units and the holders of our common shares, see the section of this prospectus entitled Comparison of Ownership of LP Units and Common Shares beginning on Page 27.

General

We conduct all of our day-to-day real estate activities through our operating partnership, IRET Properties. The operation of IRET Properties is governed by the LP Agreement. We are the sole shareholder of IRET, Inc., a North Dakota corporation, which is the general partner of IRET Properties. The holders of LP Units are the limited partners of IRET Properties. As of April 30, 2016, IRET, Inc. owned approximately 88.1% of IRET Properties.

Issuance of LP Units

We are structured as an Umbrella Partnership Real Estate Investment Trust, or UPREIT, which enables us to acquire property by issuing LP Units to a seller as a form of consideration. All LP Units have redemption rights that enable them to cause IRET Properties to redeem their LP Units or, at the option of IRET, Inc., to exchange for common shares on a one-for-one basis after a minimum one-year holding period. No LP Units have been registered pursuant to the federal or state securities laws and they are not listed on any exchange or quoted on any national market system. As of June 15, 2016, we had 16,285,239 LP Units outstanding, of which 16,285,239 were also redeemable for common shares or cash, at our option.

IRET, Inc. is authorized, in its sole and absolute discretion and without the approval of any limited partner, to issue additional LP Units to itself, to us, to any limited partner or to any other person for such consideration and on

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such terms and condition as established by IRET, Inc. The issuance of LP Units to IRET, Inc. or us is subject to certain conditions. IRET, Inc. is authorized to cause IRET Properties to issue general partnership interests or LP Units for less than fair market value if IRET, Inc. has concluded in good faith that such issuance is in our best interests and in the best interests of IRET Properties. IRET, Inc. is also authorized to issue additional partnership interests in different series or classes, which may have rights and preferences that are senior to the LP Units.

Purpose, Business and Management of IRET Properties

The purpose of IRET Properties is to conduct any business that may be lawfully conducted by a limited partnership organized pursuant to the North Dakota Uniform Limited Partnership Act, provided that such business is limited to and conducted in such a manner as to permit us at all times to qualify as a REIT. Subject to the foregoing, IRET Properties may enter into any partnership, joint venture or other similar arrangement. IRET, Inc., as the sole general partner, has full, exclusive and complete responsibility and discretion in the management and control of IRET Properties, and the limited partners have no authority in their capacity as limited partners to transact business for, or participate in the management activities or decisions of, IRET Properties except as otherwise required by applicable law.

Operation and Payment of Expenses

The LP Agreement requires that the partnership be operated in a manner that will enable us to satisfy the requirements for being classified as a REIT for federal tax purposes, to avoid any federal income or excise tax liability imposed by the Code and to ensure that IRET Properties will not be classified as a publicly traded partnership for purposes of Section 7704 of the Code.

In addition to the administrative and operating costs and expenses incurred by IRET Properties, IRET Properties pays all of the administrative costs and expenses incurred by us and IRET, Inc. All of our expenses are considered expenses of IRET Properties. Our expenses generally include: (i) all expenses relating to the operation and continuity of our existence and the existence of IRET, Inc.; (ii) all expenses relating to the public offering and registration of shares of beneficial interest by us; (iii) all expenses associated with the preparation and filing of our periodic reports under federal, state or local laws or regulations; (iv) all expenses incurred by us and IRET, Inc. associated with compliance with laws, rules and regulations promulgated by any regulatory body; and (v) all other operating or administrative costs of IRET, Inc. incurred in the ordinary course of its business on behalf of IRET Properties.

Ability to Engage in Other Business; Conflict of Interest

IRET, Inc. may have business interests and engage in business activities outside of IRET Properties, including interests and activities in direct or indirect competition with IRET Properties. IRET Properties may not purchase, sell or lease any property, borrow or loan any money, or invest in any joint ventures with any member of our board of trustees, or with any director, employee or affiliate of us, except in connection with a transaction approved by a majority of the trustees who are not in any way involved in the transaction as being a fair, competitive and commercially reasonable transaction that is no less favorable to IRET Properties than a similar transaction between unaffiliated parties under the same circumstances.

Distributions and Liquidation

The LP Agreement provides that IRET Properties shall distribute cash from operations on a quarterly basis, in amounts determined by IRET, Inc., in its sole discretion, to the partners in accordance with their respective percentage interests in IRET Properties. Upon liquidation of IRET Properties, and after payment of, or adequate provision for, debts and obligations, any remaining assets will be distributed to all partners with positive capital accounts in accordance with their respective positive capital account balances. If we have a negative balance in our capital account following a liquidation, we will be obligated to contribute cash equal to the negative balance in our capital account.

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Allocations

Income, gain and loss of IRET Properties for each fiscal year is allocated among the general partner and the limited partners in accordance with their respective interests, subject to compliance with the provisions of Sections 704(b) and 704(c) of the Code, and the regulations issued thereunder.

Borrowing by IRET Properties

The LP Agreement provides that if IRET Properties requires additional funds at any time or from time to time in excess of funds available to IRET Properties from borrowing or capital contributions, IRET, Inc. may cause IRET Properties to obtain such funds from outside borrowings or IRET, Inc. may elect to borrow such funds or have us borrow such funds and subsequently lend such funds to IRET Properties on the same terms and conditions as are applicable to our or IRET, Inc. s borrowing of such funds.

Liability of IRET, Inc. and the Limited Partners

IRET, Inc., as the general partner of IRET Properties, is liable for all general recourse obligations of IRET Properties to the extent not paid by IRET Properties. The limited partners will only be liable to IRET Properties to make payments of their capital contributions, if any. No limited partner will be liable for any debts, liabilities, contracts or obligations of IRET Properties.

Exculpation and Indemnification of IRET, Inc.

The LP Agreement provides that IRET, Inc. will not be responsible for losses sustained or liabilities incurred as a result of errors in judgment or from any act or omission, provided that IRET, Inc. acted in good faith. The LP Agreement also provides for the indemnification of us, IRET, Inc., the directors, trustees, officers and employees of both us and IRET, Inc., and such other persons as IRET, Inc. may designate from time to time in its sole discretion, against liabilities relating to the operations of IRET Properties, unless it is established that (i) the act or omission of the indemnitee was material to the matter giving rise to the proceeding and either was committed in bad faith or was the result of active and deliberate dishonesty; (ii) the indemnitee actually received an improper personal benefit in money, property or service; or (iii) in the case of any criminal proceeding, the indemnitee had reasonable cause to believe that the act or omission was unlawful.

Transferability of LP Units and General Partnership Interests

As the general partner, IRET, Inc., may not voluntarily withdraw as the general partner of IRET Properties or transfer or assign its general partnership interests in IRET Properties unless the transaction in which such withdrawal or transfer occurs results in the limited partners receiving property in an amount equal to the amount they would have received had they exercised their right to redeem their LP Units

immediately prior to such transaction, or unless the successor to IRET, Inc. contributes substantially all of its assets to IRET Properties in return for an interest in IRET Properties.

With certain limited exceptions, the limited partners may not transfer their LP Units, in whole or in part, without the written consent of IRET, Inc., which consent may be withheld in the sole discretion of IRET, Inc. IRET, Inc. may not consent to any transfer that would cause IRET Properties to be treated as a corporation for federal income tax purposes.

IRET Properties may not engage in any transaction resulting in a change of control, unless in connection with the transaction the limited partners receive or have the right to receive cash or other property equal to the product of the number of common shares into which each LP Units is then exchangeable and the greatest amount of cash, securities or other property paid in the transaction to the holder of one common share in consideration of one such common share. If, in connection with the transaction, a purchase, tender or exchange offer is made to and accepted by the holders of more than fifty percent (50%) of the common shares, each holder of LP Units will receive, or will have the right to elect to receive, the greatest amount of cash, shares of beneficial interest or other property that such holder would have received had the holder exercised his right to redeem the LP Units and received common shares in exchange for his LP Units immediately prior to the expiration of such purchase, tender or exchange offer and had accepted such purchase, tender or exchange offer.

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Despite the foregoing, we may merge, or otherwise combine our assets, with another entity if, immediately after such merger or other combination, substantially all of the assets of the surviving entity, other than its ownership in IRET Properties, are contributed to IRET Properties as a capital contribution in exchange for general partnership interests of IRET Properties with a fair market value, as reasonable determined by us, equal to the agreed value of the assets so contributed.

For any transaction described in the preceding two paragraphs, we are required to use commercially reasonable efforts to structure such transaction to avoid causing the limited partners to recognize gain for federal income tax purposes by virtue of the occurrence of, or their participation in, such transaction, provided such efforts are consistent with the exercise of our trustees fiduciary duties under applicable law.

Fiduciary Duties

Before becoming a limited partner, each limited partner must agree that in the event of any conflict in the fiduciary duties owed by us to our shareholders and by IRET, Inc., as the general partner of IRET Properties, to the limited partners, IRET, Inc. will fulfill its fiduciary duties to such limited partners by acting in the best interests of our shareholders.

Tax Matters

IRET, Inc. is the tax matters partner of IRET Properties and, as such, has authority to handle tax audits and to make tax elections under the Code on behalf of IRET Properties and the limited partners.

Amendment of the LP Agreement

Any amendment to the LP Agreement that would (i) adversely affect the right to redeem LP Units, (ii) adversely affect the limited partners rights to receive cash distributions, or (iii) alter the limited partnership s allocations of capital of IRET Properties, requires the consent of the limited partners holding more than fifty percent (50%) of the LP Units held by such limited partners.

Term

IRET Properties will continue until April 30, 2050, or until sooner dissolved upon: (i) the bankruptcy, dissolution or withdrawal of IRET, Inc.; (ii) the sale or other disposition of all or substantially all of its assets; (iii) the redemption of all of the LP Units; or (iv) the election by the general partner.

REDEMPTION OF LP UNITS

General

Pursuant to the LP Agreement, the limited partners have redemption rights that enable them to cause IRET Properties to redeem their LP Units or, at the option of IRET, Inc., to exchange for common shares on a one-for-one basis after a minimum one-year holding period. The redemption price will be paid in cash in the event that the issuance of common shares would: (i) result in any person owning, directly or indirectly, common shares in excess of the ownership limitation of 50% of the outstanding Shares; (ii) result in Shares being owned by fewer than 100 persons; (iii) result in us being closely held within the meaning of Section 856(h) of the Code; (iv) cause us to own, actually or constructively, 10% or more of the ownership interest in a tenant of our or IRET Properties real estate, within the meaning of Section 856(d)(2)(B) of the Code; or (v) cause the acquisition of common shares by such redeeming holder of LP Units to be integrated with any other distribution of common shares for purposes of complying with the Securities Act.

The limited partners may exercise the redemption at any time after the first anniversary of the date of acquisition of LP Units, provided that the limited partner is not subject to any other restrictions relating to the redemption of LP Units. Redemption rights are exercised pursuant to a notice of exchange delivered by the holder of LP Units to IRET Properties. Except as otherwise agreed between IRET Properties and a limited partner, no limited partner will be permitted more than two redemptions during any calendar year and no redemption may be made for

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less than 1,000 LP Units or, if such limited partner owns less than 1,000 LP Units, all of the LP Units held by such limited partner.

The number of common shares issuable upon redemption of LP Units will be adjusted upon the occurrence of share splits, mergers, consolidations or similar pro rata share transactions, which otherwise would have the effect of diluting the ownership interest of the limited partners or our shareholders.

Tax Treatment of Redemption of LP Units

The following discussion summarizes certain federal income tax considerations that may be relevant to a holder of LP Units that exercises his, her or its right to redeem LP Units.

The LP Agreement provides that the redemption of LP Units will be treated by us, IRET Properties and the redeeming holder of LP Units as a sale of LP Units by such holder to us. Such sale will be fully taxable to the redeeming holder of LP Units.

The determination of gain or loss from the sale or other disposition will be based on the difference between the amount realized for tax purposes by the redeeming holder of LP Units and the holder s tax basis in such LP Units. The amount realized will be the sum of the fair market value of property received (e.g., the common shares) by the holder plus the portion of the liabilities of IRET Properties that was allocable to the redeemed LP Units. In general, the tax basis of a holder of LP Units is the holder s initial basis in the LP Units the adjusted basis of the property contributed for the LP Units plus any cash contributed for the LP Units, reduced by any liabilities assumed by IRET Properties and increased by the holder s share of IRET Properties liabilities and then is increased to reflect the redeeming holder s allocable share of income of IRET Properties and decreased, but not below zero, to reflect the redeeming holder s allocable share of loss and distributions of IRET Properties. The basis also can change based on changes in the holder s share of liabilities of IRET Properties. To the extent that the amount realized exceeds the redeeming holder s basis for the redeemed LP Units, such redeeming holder will recognize gain. It is possible that the amount of gain recognized or even the tax liability resulting from such gain could exceed the fair market value of the shares received upon redemption. **Each redeeming holder of LP Units should consult with his, her or its own tax advisor for the specific tax consequences resulting from redemption of LP Units**.

Generally, any gain recognized upon a sale or other disposition of LP Units will be treated as gain attributable to the sale or disposition of a capital asset. To the extent that money or property received by a holder in exchange for all or part of the holder s LP Units is attributable to the redeeming holder s share of unrealized receivables and inventory items of IRET Properties (as defined in Section 751 of the Code), the gain or loss is ordinary income or loss. Unrealized receivables include, to the extent not previously included in the income of IRET Properties, any rights to payment for services rendered or to be rendered. Unrealized receivables also include amounts that would be subject to recapture as ordinary income if IRET Properties had sold its assets at their fair market value at the time of the transfer of LP Units.

For individuals, trusts and estates, the current maximum rate of tax on the net capital gain from a sale or exchange of a long-term capital asset (i.e., a capital asset held for more than 12 months) is 20%. The maximum rate for net capital gains attributable to the sale of depreciable real property held for more than 12 months is 25% to the extent of the prior depreciation deductions for unrecaptured Section 1250 gain (that is, depreciation deductions not otherwise recaptured as ordinary income under the existing depreciation recapture rules). Treasury Regulations provide that individuals, trusts and estates are subject to a 25% tax, or the 25% Amount , to the extent of their allocable share of unrecaptured

Section 1250 gain immediately prior to their sale or disposition of the LP Units. (A 28% rate, which applies to gains on certain collectibles and the excludable gain on the sale of qualified small business stock held for more than five years, is unlikely to be applicable to IRET Properties gains.) Provided that the LP Units are held as a long-term capital asset, such redeeming holder s LP Units would be subject to a maximum rate of tax of 20% of the difference, if any, between any gain on the sale or disposition of the LP Units and the 25% Amount.

There is a risk that a redemption by IRET Properties of LP Units issued in exchange for a contribution of property to IRET Properties may cause the original transfer of property to IRET Properties in exchange for LP Units to be treated as a disguised sale of property. Section 707 of the Code and the Treasury Regulations thereunder,

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commonly referred to as the Disguised Sale Regulations, generally provide that, unless one of the prescribed exceptions is applicable, a partner s contribution of property to a partnership and a simultaneous or subsequent transfer of money or other consideration (which may include the assumption of or taking subject to a liability) from the partnership to the partner will be presumed to be a sale, in whole or in part, of such property by the partner to the partnership. Further, the Disguised Sale Regulations provide generally that, in the absence of an applicable exception, if money or other consideration is transferred by a partnership to a partner within two years of the partner s contribution of property, the transactions are presumed to be a sale of the contributed property unless the facts and circumstances clearly establish that the transfers do not constitute a sale. The Disguised Sale Regulations also provide that if two years have passed between the transfer of money or other consideration and the contribution of property, the transactions will be presumed not to be a sale unless the facts and circumstances clearly establish that the transfers constitute a sale. **Each redeeming holder of LP Units should consult with his, her or its tax advisor to determine whether a redemption of LP Units could be subject to the Disguised Sale Regulations**.

COMPARISON OF OWNERSHIP OF LP UNITS AND COMMON SHARES

The following is a comparative summary of the material terms of the LP Units and our common shares, including summaries of certain provisions of the LP Agreement, our Declaration of Trust, our Bylaws and other referenced agreements. This summary is not a complete legal description of the LP Units, our common shares, the LP Agreement, our Declaration of Trust, our Bylaws and other referenced agreements, and is qualified in its entirety by reference to the applicable provisions of North Dakota law, the LP Agreement, our Declaration of Trust, our Bylaws and the referenced agreements, as applicable.

IRET Properties	**IRET**
Form of Organization and Assets Owned	
IRET Properties is organized as a North Dakota limited partnership and owns interests (both directly and through subsidiaries) in properties.	We are a North Dakota real estate investment trust (REIT). We believe that we have operated so as to qualify as a REIT under the Code since our organization on July 31, 1970, and we intend to continue to so operate. Our interest in IRET Properties gives us an indirect investment in the properties owned by IRET Properties. In addition, we own (either directly or through interests in subsidiaries other than IRET Properties) interests in other properties.
Length of Investment	
IRET Properties has a stated termination date of April 30, 2050, unless sooner dissolved upon: (i) the bankruptcy, dissolution or withdrawal of IRET, Inc.; (ii) the sale or other disposition of all or substantially all of its assets; (iii) the redemption of all of the LP Units; or (iv) the election by IRET, Inc., as the general partner.	Under our Declaration of Trust, subject to the provisions of any class or series of shares of beneficial interest at the time outstanding, we may be terminated at any meeting of the holders of our shares of beneficial interest called for such purpose, by the affirmative vote of the majority of the voting power of our shares then outstanding and entitled to vote thereon.
Purpose and Permitted Investments	

The LP Agreement provides that the purpose of IRET Properties is to conduct any business that may be lawfully conducted by a limited partnership organized pursuant to the North Dakota Uniform Limited Partnership Act, provided that such business is limited to and conducted in such a manner as to permit us at all times to qualify as a REIT.	Under our Declaration of Trust, our purpose is to purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property and to invest in notes, bonds and other obligations secured by mortgages on real property, and in general, to do all other things in connection with the foregoing and to have and exercise all powers conferred by North Dakota law. It is intended that our business shall be conducted so that we will qualify (so long as such qualification, in the opinion of our board of trustees, is advantageous to the holders of our shares

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IRET Properties	IRET
	of beneficial interest) as a REIT. We are permitted by LP Agreement to engage in business activities in addition to those relating to IRET Properties, including activities that are in competition with IRET Properties. We have no obligation to present opportunities to IRET Properties and the limited partners of IRET Properties have no rights by virtue of the LP Agreement to participate in business activities we may undertake in addition to or in competition with those relating to IRET Properties.
Additional Equity	
IRET Properties is authorized to issue LP Units and other partnership interests (including partnership interests of different series or classes that may be senior to the LP Units) as determined by IRET, Inc., as the general partner in its sole discretion. The issuance of LP Units to IRET, Inc. or us, however, is subject to certain conditions.	Our Declaration of Trust authorizes the issuance of an unlimited number of shares of beneficial interest, including an unlimited number of common shares. Our Declaration of Trust also authorizes our board of trustees to provide for the issuance of shares of beneficial interest upon terms and conditions and pursuant to agreements as the board of trustees may determine and, further, to establish by resolution more than one class or series of shares of beneficial interest and to fix the relative rights and preferences of such different classes or series. The rights and preferences of any class or series of shares of beneficial interest will be stated in the articles supplementary to our Declaration of Trust establishing the terms of that class or series adopted by our board of trustees and will become part of our Declaration of Trust. As of the date of this prospectus, our board has authorized common shares, Series A preferred shares and Series B preferred shares.
Borrowing Policies	
IRET, Inc., as the general partner, has full power and authority to borrow money on behalf of IRET Properties. IRET Properties has no restrictions on borrowings.	Our Bylaws provide that our aggregate borrowings, secured and unsecured, shall be reasonable in relation to our Net Assets, and shall be reviewed by our board of trustees at least quarterly. As used in our Bylaws, which usage is not in accordance with GAAP, Net Assets means our total assets at cost before deducting depreciation or other non-cash reserves less total liabilities, calculated at least quarterly on a basis consistently applied. The maximum amount of such borrowings in relation to our Net Assets shall, in the absence of a satisfactory showing that a higher level of borrowing is appropriate, not exceed 300%. Any excess in borrowing over such 300% level shall be approved by a majority of the independent members of our board of trustees and disclosed to the holders of our shares of beneficial interest in our next quarterly report, along with justification for such excess.

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IRET Properties	IRET
Other Investment Restrictions	
Other than restrictions precluding investments by IRET Properties that would adversely affect our qualification as a REIT, there are no restrictions on the investment activities of IRET Properties.	Our Declaration of Trust requires that any transaction between us and any member of our board of trustees or his or her affiliates shall be approved: (i) by a majority of our board of trustees (whether or not constituting a quorum for the transaction of business) not otherwise interested in such transaction as being fair and reasonable to us; and (ii) by a majority of the independent members of our board of trustees not otherwise interested in such transaction as being fair and reasonable to us. In no event shall we or any of our affiliates purchase any asset from any member of our board of trustees or his or her affiliates at a cost exceeding the current appraised value of said asset. In no event shall we or any of our affiliates sell any asset to any member of our board of trustees or his or her affiliates at a cost less than the current appraised value of said asset. Further, our Bylaws provide the following: • Our primary investment objectives are to obtain current income and capital appreciation for the holders of our shares of beneficial interest. • The independent members of our board of trustees shall review our investment policies with sufficient frequency and at least annually to determine that our policies at any time are in the best interests of the holders of our shares of beneficial interest. • We shall not invest in equity securities unless a majority of the members of our board of trustees (including a majority of independent members of our board of trustees) not otherwise interested in such transaction approve the transaction as being fair, competitive and commercially reasonable. • We shall not invest more than 10% of our total assets in unimproved real property or mortgage loans on unimproved real property. Unimproved real property shall mean real property that has the following three characteristics: (i) an equity interest in real property that was not

	acquired for the purpose of producing rental or other operating income; (ii) has no development or construction in process on such land; and (iii) no development or construction on such land is planned in good faith to commence on such land within one year. • We shall not invest in commodities or commodity future contracts. Such limitation is not intended to apply to future contracts, when used solely for hedging purposed in connection with our ordinary business of investing in real estate assets and mortgages.

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IRET Properties	IRET
	• We shall not invest in or make mortgage loans unless an appraisal is obtained concerning the underlying property, except for those loans insured or guaranteed by a government or government agency. In cases in which a majority of the independent members of our board of trustees so determine, and in all cases in which the transaction is with a member of our board of trustees or his or her affiliates, such an appraisal must be obtained from an independent expert concerning the underlying property. This appraisal shall be maintained in our records for at least five years, and shall be available for inspection and duplication by any holder of our shares of beneficial interest. In addition to the appraisal, a mortgagee s or owner s title insurance policy or commitment as to the priority of the mortgage or the condition of the title must be obtained. Further, our board of trustees shall observe the following policies in connection with investing in or making mortgage loans: (i) we shall not invest in real estate contracts of sale, otherwise known as land sale contracts, unless such contracts of sale are in recordable form and appropriately recorded in the chain of title; (ii) we shall not make or invest in mortgage loans, including construction loans, on any one property if the aggregate amount of all mortgage loans outstanding on the property, including our loans (and including all interest (excluding contingent participation in income and/or appreciation in value of the mortgaged property) the current payment of which may be deferred pursuant to the terms of such loans, to the extent that deferred interest on each loan exceeds 5% per annum of the principal balance of the loan) would exceed an amount equal to 85% of the appraised value of the property, as determined by appraisal, unless substantial justification exists because of the presence of other

	underwriting criteria; and (iii) we shall not make or invest in any mortgage loans that are subordinate to any mortgage or equity interest of a member of our board of trustees or his or heraffiliate. The policies outlined in (i) through (iii) above may be exceeded or avoided for a particular transaction provided a commercially reasonable justification exists and is approved by a majority of the members of our board of trustees (including a majority of the independent members of our board of trustees) not otherwise interested in the transaction.

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IRET Properties	IRET
Management Control	
IRET, Inc., as the sole general partner, has full, exclusive and complete responsibility and discretion in the management and control of IRET Properties. The limited partners have no authority in their capacity as limited partners to transact business for, or participate in the management activities or decisions of, IRET Properties except as is otherwise required by applicable law.	Our board of trustees has exclusive control over our business and affairs subject only to the restrictions set forth in our Declaration of Trust or our Bylaws. Our board of trustees currently consists of ten trustees. Such number may be increased or decreased from time to time as determined by our board of trustees, but may not be less than five or more than fifteen. Our trustees are elected annually at our annual meeting of shareholders and serve for a term of one year and until the election and qualification of his or her successor. Our Bylaws and the ordinary business policies adopted by our board of trustees may be altered or eliminated without a vote of the holders of our shares of beneficial interest. Accordingly, except for holders of common shares who vote in the election of our trustees, the holders of our shares of beneficial interest have no control over our ordinary business policies.
Fiduciary Duties	
IRET, Inc., as the general partner, has fiduciary duties to the limited partners. Before becoming a limited partner, each limited partner must agree, however, that in the event of any conflict in the fiduciary duties owed by us to our shareholders and by IRET, Inc., as the general partner of IRET Properties, to the limited partners, IRET, Inc. will fulfill its fiduciary duties to such limited partners by acting in the best interests of our shareholders.	Our Declaration of Trust is silent regarding the fiduciary relationship between our board of trustees and the holders of our shares of beneficial interest. However, we believe that, pursuant to general principles of law and equity, our board of trustees would be deemed to be in a fiduciary relationship with the holders of our shares of beneficial interest.
Management Liability and Indemnification	
As the general partner, IRET, Inc. has liability for the payment of the obligations and debts of IRET Properties. Under the LP Agreement, IRET, Inc. will not be responsible for losses sustained or liabilities incurred as a result of errors in judgment or for any act or omission, if IRET, Inc. acted in good faith. The LP Agreement also provides for the indemnification of us, IRET, Inc., the directors, trustees, officers and employees of both us and IRET, Inc., and such other persons as IRET, Inc. may designate from time to time in its sole discretion, against liabilities relating to the operations of IRET Properties unless it is established that (i) the act or omission of the indemnitee was material to the matter giving rise to the proceeding and either was committed in bad faith or was the result of active and deliberate dishonesty; (ii) the indemnitee actually received an improper personal benefit in money, property or service; or (iii) in the case of any criminal proceeding, the indemnitee had reasonable cause to believe that the act or omission was unlawful.	Our Declaration of Trust provides that we will indemnify members of our board of trustees to the fullest extent permitted by law in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she was a member of our board of trustees or is or was serving at our request as a director, trustee, officer, partner, manager, member, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, limited liability company, other enterprise or employee benefit plan, from all claims and liabilities to which such person may become subject by reason of service in such capacity, and further we will pay or reimburse reasonable expenses (including without limitation attorneys fees), as such expenses are incurred, of each member of our board of trustees in connection with any such proceedings. Our Declaration of Trust further provides that we will indemnify each of our officers and employees,

and will have the power to indemnify each

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