

Division of Corporations

PO1000072123

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BASIC AMENDMENT

CITRUS REIT CORPORATION

Certificate of Status	0
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Amendment

9/17/01

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NO. 126

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ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
CITRUS REIT CORPORATION

Document Number P01000072123

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Pursuant to the provision of Section 607.1006, Florida Statutes, Citrus REIT Corporation (the "Company") adopts the following articles of amendment to its articles of incorporation:

- FIRST:** The Company hereby amends Article III of its Articles of Incorporation to include the provisions set forth in Exhibits A, B and C attached hereto.
- SECOND:** If any amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, are as follows: Not applicable.
- THIRD:** The date of the amendment's adoption: August 1, 2001.
- FOURTH:** Adoption of Amendment (CHECK ONE)
- ☒ The amendment(s) was/were approved by the shareholders. The number of votes cast for the amendment(s) was/were sufficient for approval.
 - ☐ The amendment(s) was/were approved by the shareholders through voting groups.
 - ☐ The amendment(s) was/were adopted by the board of directors without shareholder action and shareholder action was not required.
 - ☐ The amendments(s) was/were adopted by the incorporators without shareholder action and shareholder action was not required.

Signed this 13th day of September, 2001.

Citrus REIT Corporation


William S. Hummers III, President

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Exhibit A - Series 2001 Preferred Stock

There is hereby established a series of preferred shares of the Corporation consisting of 6,000 shares, no par value, designated "Series 2001 Preferred Stock" having the preferences, limitations and relevant rights set forth below (the "Series 2001 Preferred Stock").

Section I. Dividend Rights

(a) The holders of the Series 2001 Preferred Stock shall be entitled to receive when, as and if declared by the Directors, in their discretion, out of funds legally available therefor, noncumulative cash dividends of \$30.00 per share, payable on or before December 31 in each year (such date being the "Dividend Payment Date") commencing in the fiscal year after the Series 2001 Preferred Stock is first issued.

(b) Dividends payable on the Series 2001 Preferred Stock shall be computed based on a 360-day year consisting of twelve 30-day months. Dividends will be payable to holders of record as they appear on the books of the Corporation on such record date, not more than 60 days nor less than 10 days preceding the Dividend Payment Date, from time to time fixed in advance by the Directors of the Corporation, or if no record date is fixed, to holders of record as of the close of business on the date on which the dividend is declared.

(c) The cash dividends on the Series 2001 Preferred Stock are noncumulative and, accordingly, irrespective of whether or not any regular cash dividends on the Series 2001 Preferred Stock for past periods have been paid, the Corporation may declare and pay dividends on the Common Stock and on other series of preferred shares. However, the Corporation may not pay dividends on the Common Stock, other than dividends in Common Stock, in a particular year unless the regular cash dividends on the Series 2001 Preferred Stock payable on the Dividend Payment Date within that particular fiscal year have been paid or sums sufficient therefor have been set aside. Any dividends paid in part on the Series 2001 Preferred Stock and any shares of other preferred shares ranking on a parity, as to dividends, with the Series 2001 Preferred Stock, must be paid ratably in proportion to the dividends to which the holders of all such parity shares are respectively entitled. No interest or sum of money in lieu of interest will be payable in respect of any dividend payment or payments on Series 2001 Preferred Stock.

Section II. Priority. Without limiting anything herein, the Corporation may establish other series of preferred stock that is equal to or superior in any respect (including with respect to dividends and upon liquidation) without the consent of the holders of Series 2001 Preferred Stock.

Section III. Conversion Rights. Series 2001 Preferred Stock is not convertible into any other security of the Corporation.

Section IV. Voting

(a) Holders of the Series 2001 Preferred Stock shall not be entitled to vote on any matter except as required by law and shall not have any rights to receive notice of any meetings except as required by law.

(b) Whenever the approval or other action of holders of the Series 2001 Preferred Stock voting as a separate class is required by applicable law or by the Corporation's Articles of Incorporation, each share of the Series 2001 Preferred Stock shall be entitled to one vote, and the affirmative vote of a majority of such shares at a meeting at which a majority of such shares are present or represented shall be sufficient to constitute such approval or other action unless a higher percentage is required by applicable law.

Section V. Liquidation. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Corporation, the holders of Series 2001 Preferred Stock then outstanding shall be entitled to be paid, out of the assets of the Corporation available for distribution to its shareholders whether from capital, surplus or earnings and before any payment shall be made in respect of the Corporation's Common Stock or on any other class of shares ranking junior to the Series 2001 Preferred Stock, an amount equal to \$500.00 per share. After setting apart or paying in full the preferential amounts due the holders of the Series

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2001 Preferred Stock, the remaining assets of the Corporation available for distribution to shareholders, if any, shall be distributed exclusively to the holders of Common Stock or as otherwise provided in the Corporation's Articles of Incorporation. If upon liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation available for distribution to its shareholders shall be insufficient to pay the holders of the Series 2001 Preferred Stock the full amounts to which they respectively shall be entitled, the holders of the Series 2001 Preferred Stock shall share ratably in any distribution of assets.

Section VI. Reacquired Shares. Any Series 2001 Preferred Stock redeemed or purchased or otherwise acquired by the Corporation in any manner whatsoever (whether as Series 2001 Preferred Stock, Excess Shares or otherwise) shall be retired and canceled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued Series 2001 Preferred Stock and may be reissued (by resolution of the Directors) as part of a new series of preferred stock or as new Series 2001 Preferred Stock, subject to the conditions or restrictions on issuance set forth herein.

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Exhibit B - Excess Shares

There is hereby established a series of capital stock of the Corporation consisting of 106,000 shares, no par value, designated "Excess Shares" having the preferences, limitations and relevant rights set forth below:

- (a) Excess Shares shall not be entitled to any dividends. Any dividends or distribution paid prior to the discovery by the Corporation that the Common Stock or Series 2001 Preferred Stock have been converted into Excess Shares shall be repaid to the Corporation upon demand.
- (b) The holders of Excess Shares shall not be entitled to vote on any matters (except as required by law) and shall have no rights to receive notice of any meetings (except as required by law).
- (c) In the event of any voluntary or involuntary liquidation, dissolution or winding up of, or any distribution of the assets of, the Corporation, after payment to the holders of the preferred shares of any preference on distributions in the liquidation, dissolution or winding up of, or in any distribution of the assets of the Corporation, each holder of Excess Shares shall be entitled to receive an amount equal to \$500.00 per share, plus an amount per share equal to all declared but unpaid dividends thereon (the "Excess Shares Liquidation Preference"). If upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed in respect of the Excess Shares shall be insufficient to permit the payment of the Excess Shares Liquidation Preference, then all of the net assets of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation, including any preference on distributions of any preferred shares, available for distribution to the Corporation's shareholders shall be distributed ratably (per share) in respect of the Excess Shares. After payment in full of the Excess Shares Liquidation Preference, holders of the Excess Shares shall not be entitled to participate with the holders of the Common Stock in the distribution of any remaining net assets of the Corporation. The Corporation, as holder of the Excess Shares in trust, or if the Corporation shall have been dissolved, any Director appointed by the Corporation prior to its dissolution shall distribute ratably to the beneficiaries of the Corporation, when determined, the Excess Shares Liquidation Preference.

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Exhibit C - Amendments

The following provisions shall be applicable to all classes of capital stock of the Corporation, to the extent described herein. Defined terms are set forth in Section 1.15 below.

1.1 Certificates. Every Shareholder shall be entitled to receive a certificate, in such form as the Directors shall from time to time approve, specifying the number of Shares held by such Shareholder. In furtherance of the provisions of Section 1.14 hereof, each certificate evidencing Shares shall contain the following legend conspicuously imprinted thereon:

If necessary to effect compliance by the Corporation with certain requirements of the Internal Revenue Code, the Shares represented by this certificate are subject to redemption by the Directors of the Corporation and the transfer thereof may be prohibited upon the terms and conditions set forth in the Articles of Incorporation. The Corporation will furnish a copy of such terms and conditions to the registered holder of this certificate upon request and without charge.

1.2 Issuance. The Directors in their discretion may from time to time, without vote of the Shareholders (except to the extent required by applicable law), issue Shares, in addition to the then issued and outstanding Shares and Shares held in the treasury, to such person or persons and for such payment, property, services, or other consideration, at such time or times, and on such terms as the Directors may determine, and may in such manner acquire other assets (real, personal, or mixed), and no prior offering thereof to any of the Shareholders need be made. In connection with any issuance of Shares, the Directors may issue fractional Shares or may provide for the issuance of scrip including, without limitation, the time within which any such scrip must be surrendered for exchange into full Shares and the rights, if any, of holders of scrip upon the expiration of the time so fixed, the rights, if any, to receive proportional distributions, and the rights, if any, to redeem scrip for cash, or the Directors may in their discretion, or if they see fit at the option of each holder, provide in lieu of scrip for the adjustment of the fractions in cash. The provisions of Section 1.2 hereof relative to certificates for Shares shall apply so far as applicable to such scrip, except that such scrip may, at the direction of the Directors, be not signed or signed by a transfer agent alone.

1.3 [Reserved].

1.4 [Reserved].

1.5 Procedures for Transfer of Common Stock and Series 2001 Preferred Stock. Any Person who acquires or attempts to acquire Shares in violation of Section 1.6, or any Person who is a transferee such that Excess Shares results under Section 1.7, shall immediately give written notice to the Corporation of such event and shall file with the Corporation an affidavit setting forth the number of Common Stock or Series 2001 Preferred Stock (1) directly owned, (2) Constructively Owned, and (3) Beneficially Owned by the person filing the affidavit. The affidavit to be filed with the Corporation shall set forth all information required to be reported in returns filed by Shareholders under Treasury Regulation Section 1.857-9 issued under the Code or similar provisions of any successor regulation. In any event, the affidavit, or an amendment thereof, shall be filed with the Corporation within 10 days after demand therefor and at least 15 days prior to any Transfer that would violate Section 1.6, or result in Excess Shares under Section 1.7. Such person shall provide any other information as the Corporation may request in order to determine the effect, if any, of such event on the Corporation's status as a REIT.

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1.6 Transfer Restrictions.

(a) **"100 Shareholders" Restriction.** Any Transfer that, if effective, would result in the Common Stock and Series 2001 Preferred Stock being Beneficially Owned by less than 100 Persons (determined without reference to any rules of attribution) shall be void *ab initio* as to the Transfer of such Common Stock or Series 2001 Preferred Stock which would be otherwise Beneficially Owned by the transferee; and the intended transferee shall acquire no rights in such Common Stock or Series 2001 Preferred Stock.

(b) **"Closely Held" Restriction.** Any Transfer that, if effective, would result in the Corporation being "closely held" within the meaning of Section 856(b) of the Code shall be void *ab initio* as to the Transfer of the Common Stock or Series 2001 Preferred Stock which would cause the Corporation to be "closely held" within the meaning of Section 856(b) of the Code; and the intended transferee shall acquire no rights in such Common Stock or Series 2001 Preferred Stock.

(c) **"Domestically Controlled" Restriction.** Any Transfer that, if effective, would result in the Corporation not being a "domestically-controlled REIT" within the meaning of Section 897(h)(4)(B) of the Code shall be void *ab initio* as to the Transfer of the Common Stock or Series 2001 Preferred Stock which would cause the Corporation to not be a "domestically-controlled REIT" within the meaning of Section 897(h)(4)(B) of the Code; and the intended transferee shall acquire no rights in such Common Stock or Series 2001 Preferred Stock.

(d) **General REIT Preservation Restriction.** Any Transfer that, if effective, would result in the termination of the status of the Corporation as a real estate investment trust under the REIT Provisions of the Code shall be void *ab initio* as to the Transfer of the Common Stock or Series 2001 Preferred Stock which would result in the termination of the status of the Corporation as a real estate investment trust under the REIT Provisions of the Code; and the intended transferee shall acquire no rights in such Common Stock or Series 2001 Preferred Stock.

1.7 Conversion of Common Stock or Series 2001 Preferred Stock into Excess Shares. Notwithstanding the other provisions contained herein, whenever there is a purported Transfer of Common Stock or Series 2001 Preferred Stock which is void *ab initio* as a result of the application of Section 1.6, then the Common Stock or Series 2001 Preferred Stock purportedly being Transferred (rounded up to the nearest whole share) in violation of Section 1.6 shall be automatically converted into, with no further action required, an equal number of Excess Shares. Such conversion shall be effective as of the close of business on the business day prior to the date of the purported transfer.

1.8 Remedies for Breach of Transfer Restrictions. If the Directors or their designees shall at any time determine in good faith that a Transfer has taken place or has been attempted in violation of Section 1.6 or that a Person intends to acquire or has attempted to acquire beneficial ownership (determined without reference to any rules of attribution), Beneficial Ownership or Constructive Ownership of the Corporation in violation of Section 1.6, the Directors or their designees shall take such actions as they deem advisable to refuse to give effect to or to prevent such Transfer, including, but not limited to, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer; provided, however, that any Transfer or attempted Transfer in violation of Section 1.6 shall automatically result in the conversion described in Section 1.7, irrespective of any action (or non-action) by the Directors.

1.9 Remedies Not Limited. Nothing contained herein shall limit the authority of the Directors to take such other action as they deem necessary or advisable to protect the Corporation and the interests of its shareholders by preservation of the Corporation's status as a real estate investment trust under the REIT Provisions of the Code.

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1.10 Ambiguity. In the case of an ambiguity in the application of any of the provisions set forth in Section 1.1 through 1.15, the Directors shall have the power to determine the application of such provisions with respect to any situation based on the facts known to them.

1.11 Legend. Each certificate for Common Stock and Series 2001 Preferred Stock shall bear the following legend:

"The Shares represented by this certificate are subject to restrictions on transfer for the purpose of the Corporation's maintenance of its status as a real estate investment trust under the Internal Revenue Code of 1986, as amended. Any Person who attempts to Beneficially Own or Constructively Own Common Stock or Series 2001 Preferred Stock in violation of such restrictions must immediately notify the Corporation. Capitalized terms in this legend have the meanings defined in the Corporation's Articles of Incorporation, a copy of which, including the restrictions on transfer, will be sent without charge to each shareholder who so requests. If the restrictions on transfer are violated, any such transfer shall be void *ab initio* and the Common Stock and Series 2001 Preferred Stock represented hereby will be automatically converted into Excess Shares that will be held in trust by the Corporation.

The shares represented by this certificate have not been registered under the Securities Act of 1933 or any applicable state securities laws. Such shares may not be sold or transferred in the absence of such registration or an opinion of counsel satisfactory to the issuer that such registration is not required by said act or laws."

1.12 Treatment of Excess Shares.

(a) **Ownership in Trust.** Upon any purported Transfer that results in Excess Shares pursuant to Section 1.7, such Excess Shares shall be deemed to have been transferred to the Corporation, as Director of a trust for the exclusive benefit of such Beneficiary or Beneficiaries to whom an interest in such Excess Shares may later be transferred pursuant to Section 1.12(b). Excess Shares so held in trust shall be issued and outstanding shares of the Corporation. The Purported Record Transferee shall have no rights in such Excess Shares except the right to designate a transferee of such Excess Shares upon the terms specified in Section 1.12(b). The Purported Beneficial Transferee shall have no rights in such Excess Shares except as provided in Section 1.12(b).

(b) **Restrictions on Transfer Designation of Beneficiary.**

(i) Excess Shares shall not be transferable. The Purported Record Transferee may freely designate a Beneficiary of an interest in the Corporation (representing the number of Excess Shares held by the Corporation attributable to a purported Transfer that resulted in the Excess Shares), if (1) the Excess Shares held in the Corporation would not be Excess Shares in the hands of such Beneficiary and (2) the Purported Beneficial Transferee does not receive a price for designating such Beneficiary that reflects a price per share for such Excess Shares that exceeds (x) the price per share such Purported Beneficial Transferee paid for the Common Stock or Series 2001 Preferred Stock in the purported Transfer that resulted in the Excess Shares, or (y) if the Purported Beneficial Transferee did not give value for such Excess Shares (through a gift, devise or other transaction), a price per share equal to the Market Price on the date of the purported Transfer that resulted in Excess Shares. Upon such transfer of an interest in the Corporation, the corresponding Excess Shares in the Corporation shall be automatically exchanged for an equal number of Common Stock or Series 2001 Preferred Stock, whichever the shares were prior to conversion to Excess Shares, and such Common Stock or Series 2001 Preferred Stock shall be transferred of record to the transferee of the interest in the Corporation if such Common Stock or Series 2001 Preferred Stock would not be Excess Shares in the hands of such transferee. Prior to any transfer of any interest in the Corporation, the Purported Record Transferee must give advance notice to the Corporation of the intent to transfer and the Corporation must have waived in writing its purchase rights under Section 1.12(c). In the event the Purported Record Transferee shall not designate a Beneficiary of an interest in the Corporation in accordance with this

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Section 1.12(b)(i) within one hundred eighty (180) days after the date of the purported Transfer that results in Excess Shares, then the Corporation as Director shall transfer such interest in the Corporation to the Person who initially transferred the Common Stock or Series 2001 Preferred Stock which converted to the Excess Shares and immediately thereafter the corresponding Excess Shares in the Corporation shall be automatically exchanged for an equal number of Common Stock or Series 2001 Preferred Stock, as the case may be, such that the initial transferor shall become the record owner of such Common Stock or Series 2001 Preferred Stock.

(ii) Notwithstanding the foregoing, if a Purported Beneficial Transferee receives a price for designating a Beneficiary of an interest in the Corporation that exceeds the amounts allowable under Section 1.12(b)(i), such Purported Beneficial Transferee shall pay, or cause such Beneficiary to pay, such excess to the Corporation.

(c) *Purchase Right in Excess Shares.* Beginning on the date of the occurrence of a Transfer which results in Excess Shares, such Excess Shares shall be deemed to have been offered for sale to the Corporation, or its designee, at a price per share equal to the lesser of (i) the price per share in the transaction that created such Excess Shares (or, in the case of a devise or gift, the Market Price at the time of such devise or gift) and (ii) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation shall have the right to accept such offer for a period of ninety days after the later of (i) the date of the Transfer which resulted in such Excess Shares and (ii) the date the Directors determine in good faith that a Transfer which resulted in Excess Shares has occurred, if the Corporation does not receive a notice of such Transfer pursuant to Section 1.5.

1.13 *Owners Required to Produce Information.*

(a) Every Beneficial Owner of more than 5.0% (or such lower percentage as may be required from time to time by the Treasury Regulations) of the outstanding Common Equity Shares and Preferred Equity Shares of the Corporation shall, within 30 days after January 1 of each year, give written notice to the Corporation stating the name and address of such Beneficial Owner, the number of Shares Beneficially Owned, and a description of how such Shares are held. Each such Beneficial Owner shall provide to the Corporation such additional information as the Corporation may request in order to determine the effect, if any, of such Beneficial Ownership on the Corporation's status as a REIT.

(b) Each Person who is a Beneficial Owner or Constructive Owner of Common Stock or Series 2001 Preferred Stock and each Person (including the shareholder of record) who is holding Common Stock or Series 2001 Preferred Stock for a Beneficial Owner or Constructive Owner shall provide to the Corporation such information that the Corporation may request, in good faith, in order to determine the Corporation's status as a REIT.

1.14 *Redemption and Stop Transfers for Tax Purposes.* If the Directors shall, at any time and in good faith, be of the opinion that direct or indirect ownership of Shares of the Corporation has or may become concentrated to an extent which would disqualify the Corporation from qualifying as a real estate investment trust under the REIT Provisions of the Code, then the Directors shall have the power, by lot or other means deemed equitable by them, to prevent the transfer of and/or call for redemption of a number of such Shares, or of any one or more kinds, classes, or series of such Shares, sufficient, in the opinion of the Directors, to maintain or bring the direct or indirect ownership of such Shares into conformity with the requirements for such a REIT. The redemption prices to be paid for the Shares of the Corporation (other than Shares having express redemption provisions or express prohibitions against redemption) shall be determined in such manner as the Directors may provide. The redemption price to be paid for the Shares on the date fixed for redemption shall be (1) the last reported sale price of the Shares on the last business day prior to the redemption date on the principal national securities exchange on which the Shares are listed or admitted to trading; or (2) if the Shares are not so listed or admitted to trading, the average of the highest bid and lowest asked prices on such last business day as reported by the appropriate automated quotation system selected from time to time by the Corporation for that purpose; or (3) if not determinable as aforesaid, as determined in good faith by the Directors. From and after the date fixed for redemption by the Directors the holder of any Shares so called for redemption shall cease to be entitled to any distributions, voting rights, or other

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benefits with respect to such Shares, except only the right to payment of the redemption price fixed as aforesaid. For the purpose of this Section 1.14, the term "individual" shall be construed as provided in Section 542(a)(2) of the Code, and "ownership" of Shares of the Corporation shall be determined as provided in Section 544 of the Code, as such provisions are now in effect or as hereafter amended or as provided in any successor provisions of such Code.

1.15 Definitions. For purposes of these Amendments, the following capitalized terms shall have the meanings indicated.

"Affiliate" shall mean as in any corporation, partnership, or trust any Person who holds beneficially, directly, or indirectly, 1% or more of the outstanding capital stock, shares, or equity interests of such corporation, partnership, or trust, or who is an officer, director, partner, or Director of such corporation, partnership, or trust or of any person which controls, is controlled by, or is under common control with such corporation, partnership, or trust.

"Articles of Incorporation" shall mean these Articles of Incorporation and all amendments, modifications, restatements, and supplements hereof. References in these Articles of Incorporation to "Articles," "hereof," "herein," and "hereunder" shall be deemed to refer to the Articles of Incorporation and shall not be limited to the particular text, article, or section in which such words shall appear.

"Beneficial Ownership" shall mean ownership of Common Stock, Series 2001 Preferred Stock or Excess Shares by a Person who is or would be treated as an owner of such Common Stock, Series 2001 Preferred Stock or Excess Shares either directly or constructively through the application of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code. The terms "Beneficial Owner," "Beneficially Owns" and "Beneficially Owned" shall have the correlative meanings.

"Beneficiary" shall mean the beneficiary of the Corporation (as defined herein) as determined pursuant to Section 1.12(b).

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Common Equity Shares" shall mean shares that are either Common Stock, Series 2001 Preferred Stock or Excess Shares held by a Person who is or would be treated as an owner of such Common Stock, Series 2001 Preferred Stock or Excess Shares either directly or constructively through the application of Section 318 of the Code, as modified by Section 856(d)(5) of the Code. The terms "Constructive Owner," "Constructively Owns" and "Constructively Owned" shall have the correlative meanings.

"Corporation" shall mean Citrus REIT Corporation.

"Corporation Property" shall mean as of any particular time any and all property, real, personal, or otherwise, tangible or intangible, which is transferred, conveyed, or paid to the Corporation or Directors and all rents, income, profits, and gains therefrom and which at such time is owned or held by, or for the account of, the Corporation or the Directors.

"Directors" shall mean, collectively, the persons serving as directors of the Corporation from time to time.

"Excess Shares" shall mean any Common Stock or Series 2001 Preferred Stock for which there is a purported Transfer in violation of Section 1.6, and a conversion pursuant to Section 1.7.

"Liquidation Preference" shall mean the preference of the holders of preferred shares with respect to distributions in the liquidation, dissolution or winding up of, or in any distribution of the assets of, the Corporation.

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"Market Price" shall mean in the case of Common Stock the net asset value per common share as determined in good faith by the Directors and in the case of preferred shares an amount equal to the Liquidation Preference of the preferred shares.

"Mortgage Loans" shall mean notes, debentures, bonds, and other evidences of indebtedness or obligations, whether negotiable or nonnegotiable, which are secured or collateralized by Mortgages.

"Mortgages" shall mean mortgages, deeds of trust, or other security deeds on Real Property or on rights or interests, including leasehold interests, in Real Property.

"Net Assets" shall mean the Total Assets of the Corporation after deducting therefrom any liabilities of the Corporation, except that depreciable assets shall be included therein at the lesser of either (1) the cost of such assets on the books of the Corporation less depreciation thereof or (2) the fair market value of such assets in the judgment of the Directors.

"Person" shall mean and include individuals, corporations, limited partnerships, general partnerships, joint stock companies or associations, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts, or other legal entities, associations and relationships, and governments and agencies and political subdivisions thereof.

"Preferred Equity Shares" shall mean shares that are either Series 2001 Preferred Stock or Excess Shares that were previously preferred shares.

"Purported Beneficial Transferee" shall mean, with respect to any purported Transfer which results in Excess Shares, the Person that would have been the purported beneficial transferee for whom the Purported Record Transferee would have acquired Common Stock or Series 2001 Preferred Stock, if such Transfer had not violated Section 1.6.

"Purported Record Transferee" shall mean, with respect to any purported Transfer that results in Excess Shares, the record holder of the Common Stock or Series 2001 Preferred Stock if such Transfer had not violated Section 1.6.

"Real Property" shall mean land, rights in land (including leasehold interests as lessee or lessor), and any buildings, structures, improvements, and fixtures located on or used in connection with land and rights in land, or interests herein, but does not include Mortgages, Mortgage Loans, or interests therein.

"REIT" shall mean a Real Estate Investment Corporation under Section 856 of the Code.

"REIT Provisions of the Code" shall mean Sections 856 through 860 of the Internal Revenue Code of 1986 as now enacted or hereafter amended, or successor statutes and regulations promulgated thereunder.

"Shareholders" shall mean as of any particular time all holders of record of outstanding Shares at such time, except that for purposes of Section 1.5 through Section 1.13, "Shareholders" shall only mean holders of record of outstanding Common Stock and preferred shares of the Corporation.

"Shares" shall mean the capital stock of the Corporation, including Common Stock and preferred shares.

"Total Assets of the Corporation" shall mean the aggregate amount of all of the assets of the Corporation appearing on a balance sheet of the Corporation, prepared in accordance with generally accepted accounting practices without deduction for mortgages or other security interests to which such assets are subject but after deduction for depreciation and other asset valuation reserves.

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"Transfer" shall mean any sale, transfer, gift, assignment, devise or other disposition of Common Equity Shares or Preferred Equity Shares, including, without limitation, (i) the granting of any option or entering into any agreement for the sale, transfer or other disposition of Common Equity Shares or Preferred Equity Shares or (ii) the sale, transfer, assignment or other disposition of any securities or rights convertible into or exchangeable for Common Equity Shares or Preferred Equity Shares, whether voluntary or involuntary, whether of record or beneficially and whether by operation of law or otherwise.

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