

PRIMARIS REAL ESTATE INVESTMENT TRUST

**AMENDED AND RESTATED
DECLARATION OF TRUST**

(DATED AS OF DECEMBER 15, 2021)

BLAKE, CASSELS & GRAYDON LLP

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PRIMARIS REAL ESTATE INVESTMENT TRUST
AMENDED AND RESTATED DECLARATION OF TRUST

THIS DECLARATION OF TRUST made in Toronto, Ontario as of the 12th day of November, 2021, as amended and restated as of the 15th day of December, 2021.

RECITALS

WHEREAS pursuant to and in accordance with that certain arrangement agreement (the “**Arrangement Agreement**”) between H&R Real Estate Investment Trust (“**H&R REIT**”) and PRR Investments Inc. dated October 26, 2021, H&R REIT has determined and agreed to implement a court-approved plan of arrangement (the “**2021 Plan of Arrangement**”) pursuant to which certain assets of H&R REIT will be transferred to a new trust which, immediately following completion of the 2021 Plan of Arrangement, will have the same unitholders as H&R REIT, but which will operate as a separate and independent publicly listed real estate investment trust;

AND WHEREAS in furtherance of the transactions contemplated by the Arrangement Agreement and the 2021 Plan of Arrangement, this Trust was established by H&R REIT on November 12, 2021 pursuant to a Declaration of Trust made effective as of the 12th day of November, 2021 (the “**Original Declaration of Trust**”), with H&R REIT settling the Trust with a note payable by H&R REIT with a principal amount of \$10.00 (the “**Initial Subscription Note**”), which Thomas Hofstedter, in his capacity as Trustee, thereupon held in trust, in exchange for one Series A Unit of the Trust;

AND WHEREAS H&R REIT and the Trustees desire that the Trust shall at all relevant times qualify as a “mutual fund trust” pursuant to subsection 132(6) of the Tax Act and as a “real estate investment trust” pursuant to subsection 122.1(1) of the Tax Act;

AND WHEREAS for greater certainty, this Declaration of Trust shall not be deemed to constitute a termination of the Trust or a resettlement of the Original Declaration of Trust or the Trust created thereby;

AND WHEREAS the Trustees wish to amend and restate the Original Declaration of Trust by executing this Declaration of Trust;

AND WHEREAS the parties hereto desire to set out the agreements, terms and conditions which shall govern their mutual and respective rights, powers and obligations with respect to the settlement and administration of the Trust.

DECLARATION

NOW THEREFORE, the undersigned, being all of the Trustees, hereby confirm and declare that they agree to hold in trust as trustees any and all property, real, personal or otherwise, tangible or intangible, which has been at the date hereof or is hereafter transferred, conveyed or paid to or otherwise received by them as such trustees or to which the Trust is otherwise entitled and all rents, income, profits and gains therefrom for the benefit of the Unitholders hereunder in accordance with and subject to the express provisions of this Declaration of Trust, to wit:

**ARTICLE I
THE TRUST AND DEFINITIONS**

Section 1.01 Definitions and Interpretation.

In this Declaration of Trust, words in the singular number include the plural and words in the plural number include the singular, and the masculine includes the feminine and neuter. In this Declaration of Trust, except where the context otherwise requires:

(a) “**2021 Plan of Arrangement**” has the meaning ascribed thereto in the recitals hereto;

(b) “**2021 Purchase Agreement**” means the purchase and sale agreement between, among others, HOOPP Realty Inc. and H&R REIT dated October 26, 2021;

(c) “**Affected Holder**” means a person holding or beneficially owning Units in contravention of the restrictions set out in Section 5.11;

(d) “**affiliate**” with relation to any person means an associate or an affiliated, controlled or subsidiary company of such person, all such terms (except person) having the meaning ascribed thereto by National Instrument 45-106 – *Prospectus Exemptions* of the Canadian Securities Administrators, as replaced or amended from time to time (including any successor rule or policy thereto);

(e) “**annuitant**” means the annuitant or beneficiary of an Exempt Plan or any other plan of which a Unitholder acts as trustee or carrier;

(f) “**associate**” has the meaning ascribed thereto by the *Canada Business Corporations Act*, as amended from time to time;

(g) “**Audit Committee**” means the committee established pursuant to Section 8.02;

(h) “**business day**” means a day other than a Saturday, Sunday or any day on which the principal chartered banks located at Toronto, Ontario are not open for business during normal banking hours;

(i) “**CDS**” means CDS Clearing and Depository Services Inc. and its successors;

(j) “**Chair**”, “**Honorary Chair**”, “**Chief Executive Officer**”, “**Chief Financial Officer**”, “**President**”, “**Executive Vice-President**”, “**Senior Vice-President**”, “**Vice-President**” and “**Secretary**” shall mean the person(s) holding the respective office from time to time in accordance with Section 2.10;

(k) “**court**” means the Superior Court of Justice in the Province of Ontario;

(l) “**CPOA**” has the meaning ascribed thereto in Section 2.05(d);

(m) “**Declaration of Trust**” means this declaration of trust as amended, supplemented or amended and restated from time to time;

(n) “**dissenting offeree**” means, where a take-over bid is made for all of the Units other than those held by the offeror, a holder of Units who does not accept the take-over bid and includes a subsequent holder of that Unit who acquires it from the first mentioned holder;

(o) “**Distribution Date**” means on or about the 15th day of each month or such other date as may be determined from time to time by the Trustees;

(p) “**DRS Advice**” means a direct registration system advice or similar document evidencing the electronic registration of ownership of Units or Exchangeable Securities;

(q) “**Exchange Ratio**” has the meaning ascribed thereto in Section 5.01(c);

(r) “**Exchangeable Securities**” means securities of any trust, limited partnership or corporation other than the Trust that are convertible or exchangeable directly for Units without the payment of additional consideration therefor;

(s) “**Exempt Plans**” means, collectively, registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans and tax-free saving accounts, each as defined in the Tax Act;

(t) “**going-private transaction**” means an arrangement, consolidation or other transaction involving the Trust, other than an acquisition pursuant to Section 5.26 that results in the interest of a holder of participating securities of the Trust being terminated without the consent of the holder and without the substitution of an interest of equivalent value in participating securities of the Trust or of a person that succeeds to the business of the Trust, which participating securities have rights and privileges that are equal to or greater than the affected participating securities;

(u) “**H&R REIT**” means H&R Real Estate Investment Trust, a trust established under the laws of the Province of Ontario on November 4, 1996;

(v) “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**” and similar expressions refer to this Declaration of Trust and include every instrument supplemental or ancillary to or in implementation of this Declaration of Trust and, except where the context otherwise requires, not to any particular article, section or other portion hereof or thereof;

(w) “**IFRS**” means International Financial Reporting Standards as issued by the International Accounting Standards Board, and as adopted by the Chartered Professional Accountants of Canada in Part I of the CPA Canada Handbook – Accounting, as amended from time to time;

(x) “**Independent Trustee**” means a Trustee who is independent (as that term is used in National Instrument 58-101 – *Disclosure of Corporate Governance Practices* of the Canadian Securities Administrators, as replaced or amended from time to time (including any successor rule or policy thereto) of the Trust;

(y) “**Initial Subscription Note**” has the meaning ascribed thereto in the recitals hereto;

(z) “**Monthly Limit**” has the meaning ascribed thereto in Section 10.04;

(aa) “**mortgage**” means any mortgage, charge, hypothec, bond, debenture, note or other evidence of indebtedness, in each case which is directly or indirectly secured by real property;

(bb) “**net realized capital gains of the Trust**” for any year means the amount, if any, by which the amount of the aggregate capital gains of the Trust realized in such year exceeds the sum of (i) the aggregate amount of any capital losses of the Trust realized in such year and (ii) the aggregate amount of any net capital losses of the Trust carried forward from a previous year as permitted by the Tax Act to the extent not previously deducted in computing the taxable income of the Trust;

(cc) “**Nominating Unitholder**” has the meaning ascribed thereto in Section 6.14;

(dd) “**Non-Resident**” has the meaning specified in Section 5.11;

(ee) “**Notice Date**” has the meaning ascribed thereto in Section 6.14;

(ff) “**offeree**” means a person to whom a take-over bid is made;

(gg) “**offeror**” means a person, other than an agent, who makes a take-over bid, and includes two or more persons who, directly or indirectly,

(i) make a take-over bid jointly or in concert; or

(ii) intend to exercise jointly or in concert voting rights attached to the Units for which a take-over bid is made;

(hh) “**participating securities**” means securities that give the holder of the securities a right to share in the earnings of the person that issued the securities and after the liquidation, dissolution, or winding up of the person that issued the securities or, in the case of the Trust, upon the termination of the Trust, a right to share in its assets. For greater certainty, participating securities includes the Units;

(ii) “**person**” means and includes individuals, corporations, limited partnerships, limited liability partnerships, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, pension funds, land trusts, business trusts or other organizations, whether or not legal entities and governments and agencies and political subdivisions thereof;

(jj) “**Public Trustee**” means the Office of the Public Guardian and Trustee, a part of Ontario’s Ministry of the Attorney General;

(kk) “**real property**” means property which in law is real property and includes, whether or not the same would in law be real property, leaseholds, mortgages, undivided joint

interests in real property (whether by way of tenancy-in-common, joint tenancy, co-ownership, partnership, joint venture or otherwise), any interests in any of the foregoing and securities of corporations, trusts, or partnerships whose sole or principal purpose and activity is to invest in, hold and deal in real property;

(ll) “**Receiver General**” means the Receiver General for Canada;

(mm) “**Redemption Date**” means the date on which a Redemption Notice is given;

(nn) “**Redemption Notes**” means the unsecured subordinated promissory notes of the Trust or a Subsidiary of the Trust having a maturity date and interest rate to be determined at the time of issuance by the Trustees, such promissory notes to provide that the Trust or such Subsidiary, as the case may be, shall at any time be allowed to prepay all or any part of the outstanding principal without notice or bonus;

(oo) “**Redemption Notice**” has the meaning ascribed thereto in Section 10.02(a);

(pp) “**Redemption Price**” has the meaning ascribed thereto in Section 10.03(a);

(qq) “**Register**” means the register which shall be established and maintained pursuant to Section 5.15;

(rr) “**Related Party**” means, with respect to any person, a person who is a “related party” as that term is defined in Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* of the Canadian Securities Administrators, as replaced or amended from time to time (including any successor rule or policy thereto);

(ss) “**resident Canadian**” means an individual (including a trust) or corporation that is a resident of Canada for purposes of the Tax Act, or a partnership that is a “Canadian partnership” for purposes of the Tax Act;

(tt) “**Retiring Trustee**” has the meaning ascribed thereto in Section 2.05(c);

(uu) “**Series A Units**” means Units of the Trust designated as “Series A Units” and having the rights, restrictions and privileges set forth herein;

(vv) “**Series B Units**” means Units of the Trust designated as “Series B Units” and having the rights, restrictions and privileges set forth herein;

(ww) “**Shortfall Payment**” has the meaning ascribed thereto in Section 10.05(a);

(xx) “**SIFT partnership**” has the meaning ascribed thereto in subsection 197(1) of the Tax Act;

(yy) “**SIFT Tax**” means the tax payable by a SIFT trust pursuant to paragraph 122(1)(b) of the Tax Act or by a SIFT partnership pursuant to section 197 of the Tax Act;

(zz) “**SIFT trust**” has the meaning ascribed thereto in subsection 122.1(1) of the Tax Act;

(aaa) “**Special Voting Unit**” means a non-participating special voting unit of the Trust more particularly described in Section 5.01, issued in accordance with the provisions hereof from time to time and includes a fraction of a Special Voting Unit;

(bbb) “**Special Voting Unitholder**” means a person whose name appears on the Register as a holder of one or more Special Voting Units and includes, for the purposes of Section 14.01, Section 14.02 and Section 14.04 only, any person who is a beneficial holder of a Special Voting Unit;

(ccc) “**Subsidiary**” and “**Subsidiaries**” with relation to any person have the meanings ascribed thereto by National Instrument 45-106 – *Prospectus Exemptions* of the Canadian Securities Administrators, as replaced or amended from time to time (including any successor rule or policy thereto);

(ddd) “**take-over bid**” has the meaning ascribed thereto in the *Securities Act* (Ontario), as amended from time to time;

(eee) “**Tax Act**” means the *Income Tax Act* (Canada) and the regulations thereunder as the same may be amended from time to time and as the same may be proposed to be amended to the extent that any such proposed amendments are considered to have been “substantially enacted” for accounting purposes;

(fff) “**Total Assets**” means, at any time, the sum of the assets as recorded on the most recent balance sheet of the Trust, prepared on a consolidated basis in accordance with IFRS;

(ggg) “**Trust**” means Primaris Real Estate Investment Trust, a trust created pursuant to the Original Declaration of Trust and governed by this Declaration of Trust pursuant to the laws of the Province of Ontario;

(hhh) “**Trustees**” means, as at any particular time, the trustees holding office under this Declaration of Trust at such time, whether they be the signatories hereto or additional or successor trustees, and “**Trustee**” means any one of them;

(iii) “**Trustees’ Regulations**” means the regulations adopted by the Trustees pursuant to Section 3.03;

(jjj) “**Unit**” means a participating unit of interest in the Trust as more particularly described in Section 5.01, issued in accordance with the provisions hereof from time to time and includes a fraction of a Unit, but for the avoidance of doubt does not include a Special Voting Unit;

(kkk) “**Unitholder**” or “**holder of Units**” means a person whose name appears on the Register as a holder of Units and includes, for the purposes of Section 14.01, Section 14.02 and Section 14.04 only, any person who is a beneficial holder of a Unit;

(lll) “**Withholding Tax**” has the meaning ascribed thereto in Section 9.04 hereof; and

(mmm)any reference to “**property of the Trust**” or “**assets of the Trust**” includes, in each case, property and assets of the Trust.

Section 1.02 Name.

The name of the Trust is Primaris Real Estate Investment Trust in its English form and Fonds de placement immobilier Primaris in its French form. As far as practicable and except as otherwise provided in this Declaration of Trust, the Trustees shall conduct the affairs of the Trust, hold property, execute all documents and take all legal proceedings under that name, in either its English form or its French form. For greater certainty, where any reference is made in this Declaration of Trust, or any other instrument to which the Trust or the Trustees, as trustees of the Trust, are a party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty by or with respect to (i) the Trust; or (ii) the Trustees, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding taken by or against, or a covenant, representation or warranty by or with respect to the Trustees as trustees of the Trust and not in any other capacity.

Section 1.03 Use of Name.

Should the Trustees determine that the use of the name Primaris Real Estate Investment Trust or the name Fonds de placement immobilier Primaris is not practicable, legal or convenient, they may use such other designation or they may adopt such other name for the Trust as they deem appropriate and the Trust may hold property and conduct its activities under such other designation or name.

Section 1.04 Office.

The principal office and centre of administration of the Trust shall be at 26 Wellington Street East, Suite 400, Toronto, Ontario, M5E 1S2 unless changed by the Trustees to another location in Canada. The Trust may have such other offices or places for the conduct of its affairs as the Trustees may from time to time determine as necessary or desirable.

Section 1.05 Nature of the Trust.

The Trust is an open-ended unincorporated investment trust. The Trust, its Trustees, the Units, the Special Voting Units and the property of the Trust shall be governed by the general law of trusts, except as such general law of trusts has been or is from time to time modified, altered or abridged for the Trust by:

- (a) applicable laws and regulations or other requirements imposed by applicable securities or other regulatory authorities; or
- (b) the terms, conditions and trusts set forth in this Declaration of Trust.

The beneficial interest and rights generally of a Unitholder shall be limited to the right to participate in distributions in such amounts, when and as declared by the Trustees as

contemplated by Article IX and distributions upon the termination of the Trust as contemplated in Article XIII. The Trust is not and is not intended to be, shall not be deemed to be and shall not be treated as a general partnership, limited partnership, syndicate, association, joint venture, company, corporation or joint stock company nor shall the Trustees, the Unitholders or the Special Voting Unitholders or any of them for any purpose be, or be deemed to be treated in any way whatsoever to be, liable or responsible hereunder as partners or joint venturers. The Trustees shall not be, or be deemed to be, agents of the Unitholders or the Special Voting Unitholders. The relationship of the Unitholders and the Special Voting Unitholders to the Trustees, to the Trust and to the property of the Trust shall be solely that of beneficiaries in accordance with this Declaration of Trust. The Trust is intended to be a “unit trust”, a “mutual fund trust”, and a “real estate investment trust”, in each case within the meaning of the Tax Act.

Section 1.06 Trust Investments.

The Trust shall invest primarily in real property.

Section 1.07 Applications to Court.

As the rights (including the right to apply to a court) and remedies set out in Section 3.08(h), Section 5.26, Section 6.01, Section 6.04, Section 6.11, Section 15.01 and Section 15.02 of this Declaration of Trust are not statute-based, all references in this Declaration of Trust to Unitholder rights (or the rights of any other person) that may be enforced by the court or to remedies that may be granted by the court are subject to the court, in its discretion, accepting jurisdiction to consider and determine any proceeding commenced by an eligible Unitholder (or other eligible person as contemplated herein) applying to the court under such sections.

ARTICLE II TRUSTEES AND OFFICERS

Section 2.01 Number.

After completion of the 2021 Plan of Arrangement, there shall be no fewer than five nor more than eleven Trustees. The number of Trustees may be increased or decreased within such limits from time to time by the holders of Series A Units and the Special Voting Unitholders or by the Trustees, provided that the Trustees may not, between meetings of Unitholders and Special Voting Unitholders, appoint an additional Trustee if, after such appointment, the total number of Trustees would be greater than one and one-third times the number of Trustees in office immediately following the last annual meeting of Unitholders and Special Voting Unitholders.

Section 2.02 Term of Office.

Each Trustee who executes this Declaration of Trust shall hold office for a term expiring at the close of the first annual meeting of the Unitholders or until their respective successor is elected or appointed and shall be eligible for re-election. Thereafter, the Trustees shall hold office for a term expiring at the earlier of the close of the next annual meeting of the Unitholders and Special Voting Unitholders following their respective appointment or election, or, (except as provided in Section 2.05 or Section 2.06) until their respective successors are elected or appointed and shall be eligible for re-election.

Section 2.03 Qualifications of Trustees.

A Trustee shall be an individual at least 18 years of age, who is not of unsound mind and has not been found to be of unsound mind by a court in Canada or elsewhere, and who does not have the status of bankrupt. Trustees are not required to hold Units. A majority of the Trustees must at all times be resident Canadians. The Trustees will carry out their functions of managing the Trust in Canada and will exercise the main powers and discretions in respect of their duties as Trustees of the Trust in Canada. A majority of the Trustees must be Independent Trustees provided, however, that if at any time a majority of the Trustees are not Independent Trustees because of the death, resignation, bankruptcy, adjudicated incompetence, removal or change in circumstance of any Trustee who was an Independent Trustee, this requirement shall not be applicable for a period of 60 days thereafter, during which time the remaining Trustees shall appoint a sufficient number of Independent Trustees to comply with this requirement.

Section 2.04 Election of Trustees.

Subject to Section 2.03 and Section 2.06, the election of the Trustees shall be by the vote of holders of Series A Units and Special Voting Unitholders. An individual who is elected or appointed to hold office as a Trustee (other than an individual who is serving as a Trustee immediately prior to such appointment or election) is not a Trustee and is deemed not to have been elected or appointed to hold office as a Trustee unless:

- (a) they were present at the meeting when the election or appointment took place and they did not refuse to hold office as a Trustee; or
- (b) they were not present at the meeting when the election or appointment took place and (i) they consented in writing before the election or appointment or within ten days after it to hold office as a Trustee and be bound by the terms of this Declaration of Trust, or (ii) they have acted as a Trustee pursuant to the election or appointment.

Section 2.05 Resignation, Removal and Death of Trustees.

(a) A Trustee may resign at any time by an instrument in writing signed by them and delivered or mailed to the Trustees, Chief Executive Officer, President or Secretary. Such resignation shall take effect on the date such notice is given or at any later time specified in the notice, provided that if, upon the resignation becoming effective, the number of remaining Trustees would be less than the number necessary to constitute a quorum for a meeting of Trustees, the resignation shall not be effective until the resigning Trustee's successor is duly appointed as a Trustee.

(b) A Trustee may be removed at any time with or without cause by two-thirds of the votes cast at a meeting of Unitholders and Special Voting Unitholders called for that purpose or by the written consent of Unitholders and Special Voting Unitholders holding in the aggregate not less than two-thirds of the outstanding Series A Units and Special Voting Units entitled to vote thereon or with cause by the resolution passed by an affirmative vote of not less than two-thirds of the remaining Trustees. This Declaration of Trust may only be amended to require a greater number of votes of holders of Series A Units and Special Voting Unitholders to remove a Trustee other than the number set forth in this Section 2.05 with the unanimous consent of the holders of Series A Units and Special Voting Unitholders. Any removal of a Trustee shall take effect

immediately following the aforesaid vote or resolution and any Trustee so removed shall be so notified by the Chief Executive Officer or another officer of the Trust or if there is no officer of the Trust, by any remaining Trustee or if there is no Trustee then remaining, by the Unitholders, forthwith following such removal.

(c) Upon the resignation or removal of any Trustee, or their otherwise ceasing to be a Trustee (in each case, a “**Retiring Trustee**”), such Retiring Trustee shall (i) cease to have the rights, privileges and powers of Trustees hereunder, (ii) execute and deliver such documents as the remaining Trustees shall reasonably require for the conveyance of any property of the Trust held in their name, (iii) account to the remaining Trustees as they may require for all property of the Trust which they hold as Trustee and (iv) resign from all representative or other positions held by them on behalf of the Trust, including without limitation, as a director or officer of any corporation in which the Trust owns any securities (directly or indirectly), upon which they shall thereupon be discharged of their obligations as Trustee; provided, however, that notwithstanding any other provision of this Declaration of Trust, each such Retiring Trustee shall always continue to have the protections afforded to Trustees in Article XIV.

(d) Upon the incapacity or death of any Trustee, such Trustee’s legal representative shall execute and deliver on such Trustee’s behalf such documents as the remaining Trustees may require as provided in this Section.

(e) In the event that a Retiring Trustee, a trustee referenced in Section 2.05(d) or their respective legal representatives, as applicable, are unable or unwilling to execute and deliver such required documents, each of the remaining Trustees is hereby appointed as the attorney of such Trustee for the purpose of executing and delivering such required documents. This power of attorney granted to each of the remaining Trustees is not intended to be a continuing power of attorney within the meaning of the *Substitute Decisions Act, 1992* (Ontario), exercisable during a Trustee’s incapacity to manage property, or any similar power of attorney under equivalent legislation in any of the provinces or territories of Canada (a “**CPOA**”). The execution of this power of attorney will not terminate any CPOA granted by the Trustee previously and will not be terminated by the execution by the Trustee in the future of a CPOA, and the Trustee hereby agrees not to take any action in the future which results in the termination of this power of attorney.

Section 2.06 Vacancies.

The term of office of a Trustee shall terminate and a vacancy shall occur in the event of the death, resignation, bankruptcy, adjudicated incompetence or other incapacity to exercise the duties of the office or upon the removal of such Trustee. No such vacancy shall operate to annul this Declaration of Trust or affect the continuity of the Trust. Until vacancies are filled, the remaining Trustee or Trustees (even if less than a quorum) may exercise the powers of the Trustees hereunder. In the case of a vacancy, the holders of Series A Units and Special Voting Unitholders or a majority of the Trustees continuing in office may fill such vacancy. Any Trustee so elected by the holders of Series A Units and Special Voting Unitholders or the Trustees shall hold office for the remaining term of the Trustee they are succeeding.

Section 2.07 Successor and Additional Trustees.

The right, title and interest of the Trustees in and to the property of the Trust and the rights of the Trustees to control and exclusively administer the Trust and all other rights of the

Trustees at law or under this Declaration of Trust shall vest automatically in all persons who may hereafter become Trustees upon their due election or appointment and qualification without any further act and they shall thereupon have all the rights, privileges, powers, obligations and immunities of Trustees hereunder. Such right, title and interest shall vest in the Trustees whether or not conveyancing documents have been executed and delivered pursuant to Section 2.05 or otherwise.

Section 2.08 Compensation and Other Remuneration.

Trustees who are not employees of and who do not receive salary from the Trust or its affiliates shall be entitled to receive for their services as Trustees such reasonable compensation as the Trustees may determine from time to time, as well as reimbursement of their out-of-pocket expenses incurred in acting as a Trustee. Such Trustees, either directly or indirectly, shall also be entitled to receive remuneration for services rendered to the Trust in any other capacity. Such services may include, without limitation, services as an officer of the Trust, legal, accounting or other professional services or services as a broker, transfer agent or underwriter, whether performed by a Trustee or any person affiliated with a Trustee. Trustees who are employees of and who receive salary from the Trust or its affiliates shall not be entitled to receive any remuneration for their services as Trustees but shall be entitled to reimbursement from the Trust of their out-of-pocket expenses incurred in acting as a Trustee.

Section 2.09 Validity of Acts.

Any act of a Trustee is valid notwithstanding any irregularity in the appointment of the Trustees or any of them or a defect in the qualifications of the Trustees or any of them.

Section 2.10 Officers of the Trust.

The Trust may have a Chair, an Honorary Chair, a Chief Executive Officer, a Chief Financial Officer, a President, one or more Executive Vice-Presidents, one or more Senior Vice-Presidents, one or more Vice-Presidents and a Secretary and such other officers as the Trustees may appoint from time to time. One person may hold two or more offices. Any officer of the Trust may, but need not, be a Trustee. Each of the Chair and the Honorary Chair, if not a Trustee, shall be entitled to receive notice of and attend all meetings of the Trustees but, unless they are a Trustee, neither the Chair nor the Honorary Chair shall be entitled to vote at any such meeting. Officers of the Trust shall be appointed and discharged and their remuneration determined by the Trustees.

Section 2.11 Initial Control Arrangements.

Notwithstanding Section 2.01 or anything else in this Declaration of Trust: (a) the sole initial Trustee of the Trust shall be the Chief Executive Officer of H&R REIT to hold office until replaced by the Trustees appointed in conjunction with the 2021 Plan of Arrangement, and (b) until the completion of the 2021 Plan of Arrangement, H&R REIT shall be entitled to: (i) appoint or remove a majority of the Trustees from time to time, and (ii) otherwise direct the actions of the Trust, including the voting of any securities held by the Trust.

ARTICLE III TRUSTEES' POWERS AND DUTIES

Section 3.01 General Powers.

The Trustees, subject only to the specific limitations contained in this Declaration of Trust, including without limitation Section 4.01 and Section 4.02, shall have, without further or other authorization and free from any power of control on the part of the Unitholders or the Special Voting Unitholders, full, absolute and exclusive power, control and authority over the assets of the Trust and over the affairs of the Trust to the same extent as if the Trustees were the sole owners of such assets in their own right, to do all such acts and things as in their sole judgment and discretion are necessary or incidental to, or desirable for, the carrying out of any of the purposes of the Trust or the conducting of the affairs of the Trust. In construing the provisions of this Declaration of Trust, presumption shall be in favour of the granted powers and authority to the Trustees. The enumeration of any specific power or authority herein shall not be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustees. Except as specifically required by such laws, the Trustees shall in carrying out investment activities not be in any way restricted by the provisions of the laws of any jurisdiction limiting or purporting to limit investments which may be made by trustees. Without limiting the generality of the foregoing, the Trustees may, subject to the terms and conditions contained in this Declaration of Trust, make any investments without being required to adhere to all of, or any particular portion of the investment criteria or diversification requirements set forth in the *Trustee Act* (Ontario), as replaced or amended from time to time, including investments in mutual funds, common trust funds, unit trusts and similar types of investment vehicles, to alter or vary such investments from time to time in a like manner, to retain such investments for such length of time as the Trustees, in their discretion determine and to delegate management and authority to discretionary managers of investment funds as the Trustees in their discretion determine appropriate.

For greater certainty and without limiting the generality of this Section 3.01, the Trust is authorized to complete the transactions set forth in the 2021 Plan of Arrangement and the 2021 Purchase Agreement.

Section 3.02 Specific Powers and Authorities.

Subject only to the express limitations contained in this Declaration of Trust including, without limitation Section 4.01 and Section 4.02, and in addition to any powers and authorities conferred by this Declaration of Trust or which the Trustees may have by virtue of any present or future statute or rule of law, the Trustees without any action or consent by the Unitholders or Special Voting Unitholders shall have and may exercise at any time and from time to time the following powers and authorities which may or may not be exercised by them in their sole judgment and discretion and in such manner and upon such terms and conditions as they may from time to time deem proper:

(a) To retain, invest and re-invest the capital or other funds of the Trust in real or personal property of any kind, all without regard to whether any such properties are authorized by law for the investment of trust funds, and to possess and exercise all the rights, powers and privileges appertaining to the ownership of the property of the Trust and to increase the capital of the Trust at any time by the issuance of additional Units, or Special Voting Units in connection with issuances of Exchangeable Securities, for such consideration as they deem appropriate.

(b) For such consideration as they deem proper, to invest in, purchase or otherwise acquire for cash or other property or through the issuance of Units or through the issuance of notes, debentures, bonds or other obligations or securities of the Trust and hold for investment the entire or any participating interest in any mortgages. In connection with any such investment, purchase or acquisition, the Trustees shall have the power to acquire a share of rents, lease payments or other gross income from or a share of the profits from or a share in the equity or ownership of real property.

(c) To sell, rent, lease, hire, exchange, release, partition, assign, mortgage, pledge, hypothecate, grant security interests in, encumber, negotiate, convey, transfer or otherwise dispose of any or all of the property of the Trust by deeds, trust deeds, assignments, bills of sale, transfers, leases, mortgages, financing statements, security agreements and other instruments for any of such purposes executed and delivered for and on behalf of the Trust or Trustees by one or more of the Trustees or by a duly authorized officer, employee, agent or any nominee of the Trust.

(d) To enter into leases, contracts, obligations and other agreements for a term extending beyond the term of office of the Trustees and beyond the possible termination of the Trust or for a lesser term.

(e) To issue any type of debt securities or convertible debt securities and to borrow money from or incur indebtedness to any person; to guarantee, indemnify or act as surety with respect to payment or performance of obligations of third parties; to enter into other obligations on behalf of the Trust; and to assign, convey, transfer, mortgage, subordinate, pledge, grant security interests in, encumber or hypothecate the property of the Trust to secure any of the foregoing.

(f) To lend money, whether secured or unsecured.

(g) To incur and pay out of the property of the Trust any charges or expenses and disburse any funds of the Trust, which charges, expenses or disbursements are, in the opinion of the Trustees, necessary or incidental to or desirable for the carrying out of any of the purposes of the Trust or conducting the affairs of the Trust including, without limitation, taxes or other governmental levies, charges and assessments of whatever kind or nature, imposed upon or against the Trustees in connection with the Trust or the property of the Trust or upon or against the property of the Trust or any part thereof and for any of the purposes herein.

(h) To deposit funds of the Trust in banks, trust companies and other depositories, whether or not such deposits will earn interest, the same to be subject to withdrawal on such terms and in such manner and by such person or persons (including any one or more Trustees, officers, agents or representatives) as the Trustees may determine.

(i) To possess and exercise all the rights, powers and privileges appertaining to the ownership of all or any mortgages or securities, issued or created by, or interest in, any person, forming part of the assets of the Trust, to the same extent that an individual might and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or action generally or for any particular meeting or action and may include the exercise of discretionary power.

(j) To elect, appoint, engage or employ officers for the Trust (including a Chair, an Honorary Chair, a President, one or more Executive Vice-Presidents, one or more Senior Vice-Presidents, one or more Vice-Presidents and a Secretary and other officers as the Trustees may determine), who may be removed or discharged at the discretion of the Trustees, such officers to have, subject to Section 8.05, such powers and duties, and to serve such terms as may be prescribed by the Trustees or by the Trustees' Regulations; to engage or employ any persons as agents, representatives, employees or independent contractors (including, without limitation, real estate advisors, investment advisors, registrars, underwriters, accountants, lawyers, real estate agents, property managers, appraisers, brokers, architects, engineers, construction managers, general contractors or otherwise) in one or more capacities, and to pay compensation from the Trust for services in as many capacities as such persons may be so engaged or employed; and except as prohibited by law or this Declaration of Trust, to delegate any of the powers and duties of the Trustees (including the power of delegation) to any one or more Trustees, agents, representatives, officers, employees, independent contractors or other persons.

(k) To collect, sue for and receive sums of money coming due to the Trust, and to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, proceedings, disputes, claims, demands or other litigation relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefor whether or not any suit is commenced or claim accrued or asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof.

(l) To renew, modify, release, compromise, extend, consolidate or cancel, in whole or in part, any obligation to or of the Trust.

(m) To purchase and pay for, out of the assets of the Trust, insurance contracts and policies insuring the assets of the Trust against any and all risks and insuring the Trust and/or any or all of the Trustees, the Unitholders, the Special Voting Unitholders or officers of the Trust against any and all claims and liabilities of any nature asserted by any person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustees, the Unitholders, the Special Voting Unitholders or the officers.

(n) To cause legal title to any of the assets of the Trust to be held by and/or in the name of the Trustees, or by and/or in the name of the Trust or one or more of the Trustees or any other person, on such terms, in such manner with such powers in such person as the Trustees may determine and with or without disclosure that the Trust or Trustees are interested therein provided, however, that should legal title to any of the assets of the Trust be held by and/or in the name of any person or persons other than the Trust, the Trustees shall require such person or persons to execute a declaration of trust acknowledging that legal title to such assets is held in trust for the benefit of the Trust.

(o) To determine conclusively the allocation to capital, income or other appropriate accounts all receipts, expenses, disbursements and property of the Trust.

(p) To pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Trustees in connection with the Trust's property, undertaking or income of the Trust, or imposed upon or against the Trust's property, undertaking or income of the Trust, or any part thereof, and to settle or compromise disputed tax liabilities and for the foregoing purposes to make such returns, take such deductions, and make such

designations, elections and determinations in respect of net income or net realized capital gains of the Trust distributed to Unitholders in the year and any other matter as shall be permitted under the Tax Act (provided that to the extent necessary the Trustees will seek the advice of the Trust's legal counsel or the Trust's auditors), and do all such other acts and things as may be deemed by the Trustees in their sole discretion to be necessary, desirable or convenient.

(q) To issue Units and other securities of the Trust (by way of instalment receipts or otherwise) from time to time and, if necessary or desirable, prepare, sign and file or cause to be prepared, signed and filed a prospectus, offering memorandum or similar document, and any amendment thereto, relating to or resulting from an offering of the Units or other securities issued or held by the Trust and to pay the cost thereof and related thereto out of the property of the Trust whether or not such offering is or was of direct benefit to the Trust or those persons (if any) who were Unitholders immediately prior to such offering.

(r) To make or cause to be made application for the listing on any stock exchange of any Units or other securities of the Trust, and to do all things which in the opinion of the Trustees may be necessary or desirable to effect or maintain such listing or listings.

(s) To determine conclusively the value of any or all of the property of the Trust from time to time and, in determining such value, to consider such information and advice as the Trustees, in their sole judgment, may deem material and reliable.

(t) Subject to obtaining all required regulatory approvals, to establish, suspend or amend one or more distribution reinvestment plans, Unit purchase plans, Unit option plans, deferred Unit plans, restricted Unit plans or any other Unit compensation, incentive plan or similar plan with respect to the Units.

(u) To the extent permitted by law, to indemnify, or enter into agreements with respect to the indemnification of, any person with whom the Trust has dealings including the Trustees, any directors or trustees of any Subsidiary of the Trust, officers or employees of the Trust or of any Subsidiary of the Trust, any depositary, registrar, transfer agent or escrow agent, to such extent as the Trustees shall determine.

(v) To do all such acts and things and to exercise such powers which are delegated to the Trustees by any person who co-owns real property with the Trust.

(w) To do all such other acts and things as are incidental to the foregoing, and to exercise all powers which are necessary or useful to carry on the business of the Trust, to promote any of the purposes for which the Trust is formed and to carry out the provisions of this Declaration of Trust.

Section 3.03 Further Powers of the Trustees.

The Trustees shall have the power to prescribe any form provided for or contemplated by this Declaration of Trust. The Trustees may make, adopt, amend, or repeal regulations containing provisions relating to the Trust, the conduct of its affairs, the rights or powers of the Trustees and the rights or powers of its Unitholders, Special Voting Unitholders or officers not inconsistent with law or with this Declaration of Trust and not, in the opinion of the Trustees, prejudicial to Unitholders or Special Voting Unitholders. The Trustees shall also be

entitled to make any reasonable decisions, designations or determinations not inconsistent with law or with this Declaration of Trust which they may determine are necessary or desirable in interpreting, applying or administering this Declaration of Trust or in administering, managing or operating the Trust. To the extent of any inconsistency between this Declaration of Trust and any regulation, decision, designation or determination made by the Trustees, this Declaration of Trust shall prevail and such regulation, decision, designation or determination shall be deemed to be modified to eliminate such inconsistency. Any regulations, decisions, designations or determinations made pursuant to this Section shall be conclusive and binding upon all persons affected thereby.

Subject to any agreement between the Trust and any Trustee and except as otherwise herein provided, the Trustees may from time to time in their discretion appoint, employ, invest in, contract or deal with any person including any affiliate of any of them and any person in which any one or more of them may be directly or indirectly interested and, without limiting the generality of the foregoing, any Trustee may purchase, hold, sell, invest in or otherwise deal with real property or other property of the same class and nature as may be held by the Trustees as property of the Trust, whether for the Trustee's own account or for the account of another (in a fiduciary capacity or otherwise), without being liable to account therefor and without being in breach of his or her duties and responsibilities hereunder.

Section 3.04 Banking.

The banking activities of the Trust, or any part thereof, including the operation of the Trust's accounts; the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for orders relating to any property of the Trust; the execution of any agreement relating to any property of the Trust; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such bank to do any act or thing on the Trust's behalf to facilitate such banking activities, shall be transacted with such bank, trust company or other firm or corporation carrying on a banking business as the Trustees may designate, appoint or authorize from time to time and shall be transacted on the Trust's behalf by one or more officers of the Trust as the Trustees may designate, appoint or authorize from time to time.

Section 3.05 Standard of Care.

The exclusive standard of care required of the Trustees in exercising their powers and carrying out their functions hereunder shall be that they exercise their powers and carry out their functions hereunder as Trustees honestly, in good faith and in the best interests of the Trust and that in connection therewith they exercise that degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Unless otherwise required by law, no Trustee shall be required to give bond, surety or security in any jurisdiction for the performance of any duties or obligations hereunder. The Trustees in their capacity as Trustees shall not be required to devote their entire time to the affairs of the Trust.

No Trustee shall be liable in carrying out such Trustee's duties under this Declaration of Trust except in cases where the Trustee fails to act honestly, in good faith and in the best interests of the Trust or, in connection therewith, fails to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

The duties and standard of care of the Trustees provided as aforesaid are intended to be similar to, and not to be any greater than, those imposed on a director of a corporation governed by the *Canada Business Corporations Act*.

Section 3.06 Reliance Upon Trustees.

Any person dealing with the Trust in respect of any matters pertaining to the assets of the Trust and any right, title or interest therein or to the Trust or to securities of the Trust shall be entitled to rely on a certificate or statutory declaration (including, without limiting the foregoing, a certificate or statutory declaration as to the passing of a resolution of the Trustees) executed by any single Trustee or the Secretary or, without limiting the foregoing, such other person as may be authorized by the Trustees as to the capacity, power and authority of the Trustees or any other person to act for and on behalf and in the name of the Trust. No person dealing with the Trustees shall be bound to see to the application of any funds or property passing into the hands or control of the Trustees. The receipt by or on behalf of the Trustees for monies or other consideration shall be binding upon the Trust.

Section 3.07 Determinations of Trustees Binding.

All determinations of the Trustees which are made in good faith with respect to any matters relating to the Trust, including, without limiting the generality of the foregoing, whether any particular investment or disposition meets the requirements of this Declaration of Trust, shall be final and conclusive and shall be binding upon the Trust and all Unitholders and Special Voting Unitholders (and, where the Unitholder or Special Voting Unitholder is an Exempt Plan, or other such similar fund or plan registered under the Tax Act, upon plan beneficiaries and plan holders past, present and future) and Units and Special Voting Units of the Trust shall be issued and sold on the condition and understanding that any and all such determinations shall be binding as aforesaid.

Section 3.08 Conflict of Interest.

Except in respect of agreements entered into in conjunction with the 2021 Plan of Arrangement and/or the ownership of Units, if a Trustee or an officer of the Trust (i) is a party to a material contract or transaction or proposed material contract or transaction with the Trust; or (ii) is a director or officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Trust, the Trustee or the officer of the Trust, as the case may be, shall disclose in writing to the Trustees or request to have entered into the minutes of meetings of the Trustees the nature and extent of such interest as follows:

- (a) The disclosure required in the case of a Trustee shall be made:
 - (i) at the meeting of Trustees at which a proposed contract or transaction is first considered;
 - (ii) if the Trustee was not then interested in a proposed contract or transaction, at the first such meeting after the Trustee has become so interested;

- (iii) if the Trustee becomes interested after a contract is made or a transaction is entered into, at the first meeting after the Trustee has become so interested; or
- (iv) if a person who is interested in a contract or transaction later becomes a Trustee, at the first such meeting after the Trustee has become a Trustee.

(b) The disclosure required in the case of an officer of the Trust who is not a Trustee shall be made:

- (i) immediately after such person becomes aware that the contract or transaction or proposed contract or transaction is to be considered or has been considered at a meeting of the Trustees;
- (ii) if such person becomes interested after a contract is made or a transaction is entered to, immediately after such person becomes so interested; or
- (iii) if a person who is interested in a contract or transaction later becomes an officer of the Trust who is not a Trustee, immediately after such person becomes an officer of the Trust.

(c) Notwithstanding Section 3.08(a) and Section 3.08(b), where this Section applies to any person in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the affairs of the Trust, would not require approval by the Trustees, or the Unitholders and the Special Voting Unitholders, such person shall disclose in writing to the Trustees or request to have entered into the minutes of meetings of the Trustees the nature and extent of such person's interest immediately after such person becomes aware of the contract or transaction or proposed contract or transaction.

(d) A Trustee referred to in this Section shall not vote on any resolution to approve the said contract or transaction unless the contract or transaction is:

- (i) one relating primarily to such Trustee's remuneration as a Trustee, officer, employee or agent of the Trust or any affiliate of the Trust; or
- (ii) one for indemnity under Section 14.01 hereof or the purchase of liability insurance.

(e) For the purposes hereof, a general notice to the Trustees by a Trustee or an officer of the Trust disclosing that such Trustee or officer is a director or officer of or has a material interest in a person and is to be regarded as interested in any contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any contract so made or transaction so entered into. In the event that a meeting of Unitholders and Special Voting Unitholders is called to confirm or approve a contract or transaction which is the subject of a general notice to the Trustees, the notice and extent of the interest in the contract or transaction of the person giving such general notice shall be disclosed in reasonable detail in the notice calling the said meeting of Unitholders and Special Voting Unitholders or in any information circular required to be provided by this Declaration of Trust or by law.

(f) Where a material contract is made or a material transaction is entered into between the Trust and a Trustee or an officer of the Trust, or between the Trust and another person of which a Trustee or an officer of the Trust is a director or officer of or in which they or it has a material interest:

- (i) such person is not accountable to the Trust, the Unitholders or the Special Voting Unitholders for any profit or gain realized from the contract or transaction; and
- (ii) the contract or transaction is not invalid,

by reason only of that relationship or by reason only that such person is present at or is counted to determine whether a quorum existed at the meeting of the Trustees that authorized the contract or transaction, if such person disclosed their interest in accordance with this Section 3.08, and the contract or transaction was reasonable and fair to the Trust at the time it was so approved.

(g) Notwithstanding anything in this Section, but without limiting the effect of Section 3.08(f), a Trustee or an officer of the Trust, acting honestly and in good faith, is not accountable to the Trust, the Unitholders or the Special Voting Unitholders for any profit or gain realized from any such contract or transaction, and the contract or transaction is not invalid by reason only of such person's interest in the contract or transaction, if:

- (i) the contract or transaction is confirmed or approved at a meeting of Unitholders and Special Voting Unitholders duly called for that purpose; and
- (ii) the nature and extent of such person's interest in the contract or transaction are disclosed in reasonable detail, sufficient to indicate its nature, in the notice calling the meeting or in any information circular required to be provided by this Declaration of Trust or by law.

(h) Subject to Section 3.08(f) and Section 3.08(g), where a Trustee or an officer of the Trust fails to disclose their interest in a material contract or transaction in accordance with this Declaration of Trust or otherwise fails to comply with this Section, the Trustees or any Unitholder or Special Voting Unitholder, in addition to exercising any other rights or remedies in connection with such failure exercisable at law or in equity, may apply to a court for an order setting aside the contract or transaction or directing that such person account to the Trust for any profit or gain realized, or do both those things.

Section 3.09 Conditions Precedent.

The obligation of the Trustees to commence or continue any act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding shall be conditional upon sufficient funds being available to the Trustees from the Trust's property to commence or continue such act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding and an indemnity reasonably satisfactory to the Trustees to protect and hold harmless the Trustees against the costs, charges and expenses and liabilities to be incurred therein and any loss and damage the Trust may suffer by reason thereof. None of the provisions contained in this Declaration of Trust shall require the Trustees to expend or risk their own funds or otherwise incur

financial liability in the performance of their duties or in the exercise of any of their rights or powers unless they are given an indemnity and funding satisfactory to the Trustees, acting reasonably.

ARTICLE IV INVESTMENT GUIDELINES AND OPERATING POLICIES

Section 4.01 Investment Guidelines.

The assets of the Trust may be invested only in accordance with the following guidelines:

(a) the Trust will invest primarily, directly or indirectly, in interests (including fee ownership and leasehold interests) in income-producing real property located in Canada or the United States and assets ancillary thereto necessary for the operation of such real property and such other activities as may be determined by the Trustees that are consistent with the other investment guidelines of the Trust;

(b) notwithstanding any other provision of this Article IV, the Trust shall not, directly or indirectly, make or hold any investment, take any action or omit to take any action where such investment, action or omission, as the case may be, (i) would result in the Trust not qualifying as a “mutual fund trust” or a “unit trust” both within the meaning of the Tax Act, (ii) would result in Units or Special Voting Units not qualifying as qualified investments under the Tax Act for Exempt Plans, (iii) would result in the Trust being liable to pay a tax under Part XII.2 of the Tax Act, or (iv) would result in the Trust not qualifying as a “real estate investment trust” within the meaning of the Tax Act if, as a consequence of the Trust not so qualifying, the Trust or any of its Subsidiaries would be liable to pay SIFT Tax;

(c) the Trust shall not invest in any interest in a single real property if, after giving effect to the proposed investment, the cost to the Trust of such investment (net of the amount of debt incurred or assumed in connection with such investment) will exceed 20% of Total Assets at the time the investment is made;

(d) the Trust may make its investments and conduct its activities, directly or indirectly, through an investment in one or more persons on such terms as the Trustees may from time to time determine, including by way of joint ventures, partnerships (general or limited), and limited liability companies, in which case the Trust shall require any such person to only make investments and adopt the Operating Policies and undertake activities that will allow the Trust to meet all requisite organizational, operational, income, asset, and distribution requirements for the Trust to qualify as a “real estate investment trust” under the Tax Act if, as a consequence of not so qualifying, the Trust or any of its Subsidiaries would be liable to pay SIFT Tax;

(e) except for the Initial Subscription Note and any other property acquired or otherwise held by the Trust pursuant to the transactions contemplated by the 2021 Plan of Arrangement, and except for temporary investments held in cash, deposits with a Canadian chartered bank or trust company registered under the laws of a province or territory of Canada, deposits with a savings institution, trust company, credit union or similar financial institution that is organized or chartered under the laws of a state or of the United States, short-term government debt securities or money market instruments maturing prior to one year from the date of issue and

except as permitted pursuant to Section 4.01 and Section 4.02, the Trust may not hold securities of a person other than to the extent such securities would constitute an investment in real property (as determined by the Trustees) and provided further that, notwithstanding anything contained in this Declaration of Trust to the contrary, but in all events subject to paragraph (b) above, the Trust may hold securities of a person: (i) acquired in connection with the carrying on, directly or indirectly, of the Trust's activities or the holding of its assets; or (ii) which focuses its activities primarily on the activities described in paragraph (a) above, provided in the case of any proposed investment or acquisition which would result in the beneficial ownership of more than 10% of the outstanding securities of an issuer (the "**Acquired Issuer**"), the investment is made for the purpose of subsequently effecting the merger or combination of the business and assets of the Trust and the Acquired Issuer or for otherwise ensuring that the Trust will control the business and operations of the Acquired Issuer;

(f) the Trust shall not invest in rights to or interests in mineral or other natural resources, including oil or gas, except as incidental to an investment in real property;

(g) the Trust shall not invest in raw land for development, except (i) for existing properties with additional development or properties adjacent to existing properties of the Trust for the purpose of the renovation or expansion of existing properties, or (ii) the development of new properties which will be capital property of the Trust, provided that the aggregate value of the investments of the Trust in raw land, excluding raw land under development, after giving effect to the proposed investment, will not exceed 20% of Total Assets;

(h) the Trust may invest in mortgages and mortgage bonds (including participating or convertible mortgages) and similar instruments where:

(i) the real property which is security therefor is income producing real property which otherwise meets the other investment guidelines of the Trust; and

(ii) the aggregate book value of the investments of the Trust in mortgages, after giving effect to the proposed investment, will not exceed 20% of Total Assets; and

(i) the Trust may invest an amount (which, in the case of an amount invested to acquire real property, is the purchase price less the amount of any debt incurred or assumed in connection with such investment) up to 20% of the Total Assets of the Trust in investments which do not comply with one or more of paragraphs (a), (d), (e), (g) and (h).

For the purpose of the foregoing Investment Guidelines, the assets, liabilities and transactions of a corporation or other entity wholly or partially-owned by the Trust will be deemed to be those of the Trust on a proportionate consolidation basis except where such consolidation would be inconsistent with the relevant requirements of the Tax Act. In addition, any references in the foregoing to investment in real property will be deemed to include an investment in a joint venture arrangement that invests in real property.

Section 4.02 Operating Policies.

The operations and affairs of the Trust shall be conducted in accordance with the following policies:

(a) the Trust shall not purchase, sell, market or trade in currency or interest rate futures contracts otherwise than for hedging purposes where, for this purpose the term “hedging” has the meaning given by National Instrument 81-102 — *Investment Funds* adopted by the Canadian Securities Administrators, as replaced or amended from time to time (including any successor rule or policy thereto), and in all events subject to Section 4.01(b);

(b) except for any obligation of an entity acquired by the Trust in conjunction with the 2021 Plan of Arrangement or the 2021 Purchase Agreement, (i) any written instrument creating an obligation which is or includes the granting by the Trust of a mortgage, and (ii) to the extent the Trustees determine to be practicable and consistent with their fiduciary duties to act in the best interest of the Trust, any written instrument which is, in the judgment of the Trustees, a material obligation, shall contain a provision or be subject to an acknowledgement to the effect that the obligation being created is not personally binding upon, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, by lawsuit or otherwise, the private property of any of the Trustees, Unitholders, Special Voting Unitholders, annuitants or beneficiaries under a plan of which a Unitholder or Special Voting Unitholder acts as a trustee or carrier, or officers, employees or agents of the Trust, but that only property of the Trust or a specific portion thereof shall be bound; the Trust, however, is not required, but shall use all reasonable efforts, to comply with this requirement in respect of obligations assumed by the Trust upon the acquisition of real property;

(c) the Trust shall not lease or sublease to any person any real property, premises or space where that person and its affiliates would, after the contemplated lease or sublease, be leasing or subleasing real property, premises or space having a fair market value net of encumbrances in excess of 20% of Total Assets;

(d) the limitation contained in Section 4.02(c) shall not apply to the renewal of a lease or sublease and shall not apply where the lessee or sublessee is, or where the lease or sublease is guaranteed by:

- (i) the Government of Canada, the Government of the United States, any province or territory of Canada, any state of the United States, any municipality or city in Canada or the United States, or any agency or crown corporation thereof; or
- (ii) any issuer, of which any of the bonds, debentures or other evidences of indebtedness or any other securities of, or guaranteed by, such issuer:
 - (A) are authorized as an investment for insurance companies pursuant to subsections 86(l)(k), (m) or (n) of the *Canadian and British Insurance Companies Act* in effect on December 31, 1991; or
 - (B) have received and continue to hold an “investment grade” rating from at least one recognized credit rating agency,

in each case at the time the lease or sublease is entered into, or at the time other satisfactory leasing or pre-leasing arrangements (as determined by the Trustees in their discretion) were entered into; or

(iii) a Canadian chartered bank or a trust company or insurance company registered or licensed federally or under the laws of a province of Canada;

(e) the Trust may engage in construction or development of real property to maintain its real properties in good repair or to improve the income-producing potential of properties in which the Trust has an interest;

(f) the Trust may not engage in construction or development of new properties that will be capital properties of the Trust on completion unless the aggregate value of the investments of the Trust in such properties under development, after giving effect to the proposed investment in the construction or development, shall not exceed 20% of Total Assets;

(g) title to each real property shall be held by and registered in the name of the Trust, the Trustees, a Subsidiary, a person jointly-owned, directly or indirectly, by the Trust or a Subsidiary with joint venturers or by any other person in such manner as the Trustees consider appropriate, taking into account advice of legal counsel; provided that, where land tenure will not provide fee simple title, the Trust, the Trustees, a Subsidiary or a person jointly owned, directly or indirectly, by the Trust or such other person as the Trustees consider appropriate, as aforesaid, shall hold a land lease as appropriate under the land tenure system in the relevant jurisdiction;

(h) the Trust shall not incur or assume, or permit any Subsidiaries to incur or assume, any indebtedness if, after giving effect to the incurring or assumption of the indebtedness, the total indebtedness of the Trust would be more than 65% of the Total Assets; for the purposes of this subsection, the term "indebtedness" means any obligation of the Trust for borrowed money to the extent that it is classified as a liability on the balance sheet of the Trust calculated in accordance with IFRS but does not include (1) convertible debt instruments issued by the Trust under which the principal amount owing may be satisfied at the option of the Trust through the issuance of Units, (2) any preferred trust units that have not been called for redemption, (3) any trade accounts payable, distributions payable to Unitholders and accrued liabilities arising in the ordinary course of business, or (4) the fair value of any units, shares or other securities convertible into or exchangeable for Units without the payment of additional consideration therefor;

(i) except as specifically contemplated in the 2021 Plan of Arrangement, the Trust shall not directly or indirectly guarantee any indebtedness or liabilities of any person unless such guarantee: (i) is given in connection with or incidental to an investment that is otherwise permitted by the Trust's investment guidelines; (ii) has been approved by the Trustees; and (iii) (A) would not disqualify the Trust as a "mutual fund trust" within the meaning of the Tax Act, and (B) would not result in the Trust losing any status under the Tax Act that is otherwise beneficial to the Trust and its Unitholders;

(j) the Trust shall directly or indirectly obtain and maintain at all times property insurance coverage in respect of potential liabilities of the Trust and the accidental loss of value of the assets of the Trust from risks, in amounts, with such insurers, and on such terms as the Trustees consider appropriate, taking into account all relevant factors including the practice of owners of comparable properties;

(k) other than the real property acquired pursuant to the 2021 Plan of Arrangement and the 2021 Purchase Agreement, the Trust shall have obtained an appraisal of each real property that it intends to acquire and an engineering survey with respect to the physical condition thereof, in each case, by an independent and experienced consultant, unless the requirement for such an appraisal or engineering survey is waived by the Independent Trustees; and

(l) other than the real property acquired pursuant to the 2021 Plan of Arrangement and the 2021 Purchase Agreement, the Trust shall either (i) obtain a Phase I environmental site assessment or (ii) be entitled to rely on an existing Phase I environmental site assessment, of each real property to be acquired by it and, if the Phase I environmental site assessment report recommends that a further environmental site assessment be conducted, the Trust shall have conducted such further environmental site assessments, in each case by an independent and experienced environmental consultant.

For greater certainty, each Subsidiary of the Trust shall comply with the foregoing policies, except that all percentage thresholds set forth in the foregoing paragraphs shall be calculated on a consolidated basis.

Section 4.03 Tax Status.

The Trustees shall cause the Trust to timely elect, in its return of income for the first taxation year of the Trust, pursuant to and in accordance with subsection 132(6.1) of the Tax Act, that the Trust be deemed to be a “mutual fund trust” for the purposes of the Tax Act from the date it was established.

Notwithstanding anything else contained in this Declaration of Trust, the Trust shall not make any investment, take any action or omit to take any action that would result in the Trust failing or ceasing to qualify as a “mutual fund trust” within the meaning of the Tax Act.

Section 4.04 Application of Investment Guidelines and Operating Policies.

With respect to the Investment Guidelines contained in Section 4.01 and the Operating Policies contained in Section 4.02:

(a) investment in real property includes an investment in any joint arrangement that invests in real property; and

(b) except in the case of Section 4.01(b), where any maximum or minimum percentage limitation is specified in any of the guidelines or policies therein contained, such guidelines or policies shall be applied on the basis of the relevant amounts calculated immediately after the making of such investment or the taking of such action; any subsequent change relative to any percentage limitation which results from a subsequent change in the amount of Total Assets, as the case may be, will not require the divestiture of any investment.

Section 4.05 Regulatory Matters.

If at any time a government or regulatory authority having jurisdiction over the Trust or any property of the Trust shall enact any law, regulation or requirement which is in conflict

with any investment restriction of the Trust then in force, such restriction in conflict shall, if the Trustees on the advice of legal counsel to the Trust so resolve, be deemed to have been amended to the extent necessary to resolve any such conflict and, notwithstanding anything to the contrary herein contained, any such resolution of the Trustees shall not require the prior approval of Unitholders or Special Voting Unitholders.

ARTICLE V UNITS AND SPECIAL VOTING UNITS

Section 5.01 Units and Special Voting Units.

(a) The beneficial interests in the Trust shall be divided into two classes, described and designated as “Units” (which may be represented by instalment receipts) and “Special Voting Units” which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein. The Units shall be further divided into two series, described and designated as “Series A Units” and “Series B Units”, which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein. The number of Units and Special Voting Units which the Trust may issue is unlimited. Each Unit and Special Voting Unit when issued shall vest indefeasibly in the holder thereof. Subject to applicable regulatory approval, the issued and outstanding Units and Special Voting Units may be subdivided or consolidated from time to time by the Trustees without notice to or approval of the Unitholders or Special Voting Unitholders.

(b) Subject to Section 6.10, holders of Series A Units shall be entitled to receive notice of, to attend and to have one vote for each Series A Unit held at all meetings of the Unitholders and Special Voting Unitholders. Subject to Section 6.10, holders of Series B Units shall be entitled to receive notice of and to attend all meetings of the Unitholders and Special Voting Unitholders but, except as otherwise provided in this Declaration of Trust or as required by law (including applicable securities laws), the holders of Series B Units shall not have the right to vote thereat.

(c) Subject to the provisions of this Declaration of Trust, a holder of Series B Units shall be entitled at any time to cause the conversion of all or any number of the Series B Units held by them into Series A Units on the basis of one Series A Unit for each Series B Unit in respect of which the conversion right is exercised, subject to adjustment as hereinafter provided (the “**Exchange Ratio**”). The conversion right provided for in this Section 5.01(c) shall be exercised by notice in writing given to the Trust’s transfer agent and/or registrar accompanied by the certificate or DRS Advice representing the Series B Units in respect of which the holder desires to exercise such right of conversion and such notice shall be executed by the person registered in the Register of the Trust as the holder of the Series B Units or by their duly authorized attorney and shall specify the number of Series B Units which the holder desires to have converted. The holder shall pay any governmental or other tax imposed on or in respect of such conversion. Upon receipt by the Trust’s transfer agent and/or registrar of such notice and certificate or DRS Advice and payment of all governmental or other tax imposed on or in respect of such conversion, the Trust shall issue or cause to be issued to the holder so exercising the conversion right in respect of Series B Units a certificate, DRS Advice or other electronic registration representing the appropriate number of Series A Units. If less than all of the Series B Units represented by any certificate or DRS Advice are to be converted, the holder shall be entitled to a new certificate or

DRS Advice representing the number of Series B Units represented by the original certificate which are not to be converted.

- (d) If at any time the Trust shall:
 - (i) issue or distribute (A) Units (or securities exchangeable for or convertible into or carrying rights to acquire Units) to the holders of all or substantially all of the then-outstanding Series A Units (other than (x) a Unit distribution and consolidation as contemplated by Section 9.01, or (y) the issuance of Units pursuant to any distribution reinvestment plan of the Trust in effect from time to time), or (B) rights, options, warrants or other securities exchangeable for or convertible into or carrying rights to acquire Units, to all or substantially all of the holders of the Series A Units by way of Unit distribution or other distribution (other than a Unit distribution and consolidation as contemplated by Section 9.01);
 - (ii) issue or distribute to the holders of all or substantially all of the Series A Units (A) evidences of indebtedness of the Trust, or (B) assets of the Trust, except in accordance with Section 10.04;
 - (iii) subdivide, redivide or change its outstanding Series A Units into a greater number of Series A Units without a concurrent and equivalent subdivision, redivision or change of its outstanding Series B Units;
 - (iv) reduce, combine or consolidate its outstanding Series A Units into a lesser number of Series A Units (other than a Unit distribution and consolidation as contemplated by Section 9.01) without a concurrent and equivalent reduction, combination or consolidation of its outstanding Series B Units; or
 - (v) undertake a reclassification, capital reorganization or similar change in the Series A Units,

(each such event, a “**Unit Reorganization**”), the Exchange Ratio shall be adjusted to be the number of Series A Units that would be received by a holder of a Series B Unit immediately following the Unit Reorganization if the holder of Series B Units had exercised their conversion right in respect of the Series B Unit immediately prior to the Unit Reorganization (assuming full exercise of any such rights, options, warrants or other exchangeable or convertible securities).

(e) If at any time while any Series B Unit is outstanding there is any consolidation, amalgamation, arrangement, merger or other form of business combination of the Trust with or into any other entity resulting in a reclassification of the outstanding Series A Units or an exchange of outstanding Series A Units for other securities, cash or property, then the conversion right will be adjusted simultaneously in a manner approved by the Trustees, acting reasonably, to ensure that holders of Series B Units will be entitled to receive, in lieu of the number of Series A Units to which they would otherwise have been entitled in respect of one Series B Unit if such Series B Unit had been exchanged for Series A Units pursuant to the conversion right, the kind and number or amount of securities, cash or property that they would have been entitled to receive as a result of such event if, on the effective date thereof, they had been the registered

holders of the number of Series A Units that they would have received had such Series B Units been exchanged for Series A Units pursuant to the conversion right immediately before the effective date of any such event.

(f) If at any time while any Series B Units are outstanding the Trust takes any action affecting or relating to Series A Units other than an action contemplated by Section 5.01(d) or Section 5.01(e) which would affect the rights of the holders of Series B Units, the Exchange Ratio shall be adjusted in such a manner, if any, and at such time, as the Trustees determine to be fair and equitable in the circumstances to holders of Series B Units; provided that any such adjustment shall be subject to the prior approval of any stock exchange on which the Series A Units are then listed (for so long as the Series A Units are listed on such exchange).

(g) The adjustments provided for in Section 5.01(d), Section 5.01(e) and Section 5.01(f) shall be cumulative (without duplication).

(h) No Special Voting Unit shall be entitled to any legal or beneficial interest or share in the distributions or net assets of the Trust. Special Voting Units may be issued in series and shall only be issued concurrently with or in relation to the issuance of Exchangeable Securities on such terms and conditions as may be determined by the Trustees. Special Voting Units shall not be transferable separately from the Exchangeable Securities to which they are attached and will automatically be transferred upon the transfer of any such Exchangeable Securities. Special Voting Units shall be automatically cancelled, without any further action of the Trustees or the Trust, and the former holder of such Special Voting Unit will cease to have any rights with respect thereto, concurrently with the issuance of Units on the conversion, exchange or cancellation of the related Exchangeable Securities. Subject to Section 6.10, a Special Voting Unit shall be entitled to that number of votes equal to the number of Units into which the Exchangeable Securities to which such Special Voting Unit relates are exchangeable or convertible (other than in respect of Exchangeable Securities which have been so exchanged, converted or cancelled) at all meetings of Unitholders and Special Voting Unitholders or in respect of any written resolution of Unitholders and Special Voting Unitholders. For greater certainty, Special Voting Unitholders shall not be entitled to any distributions of any nature whatsoever from the Trust or have any legal or beneficial interests in any assets of the Trust on termination or winding-up of the Trust.

(i) Concurrently with the issuance of any Exchangeable Securities and related Special Voting Units, the Trust shall enter into such agreements, including voting and exchange trust agreements and support agreements as may be necessary or desirable to properly provide for the terms of the Exchangeable Securities, including to provide for voting of such Special Voting Units.

Section 5.02 Ranking of Units.

Each Unit shall represent an equal undivided interest in the Trust with all outstanding Units, all Units outstanding from time to time shall participate *pro rata* in any distributions by the Trust and, in the event of termination of the Trust, in the net assets of the Trust remaining after satisfaction of all liabilities and no Unit shall have any preference or priority over any other. Special Voting Units shall have no legal or beneficial interest in the distributions or assets of the Trust.

Section 5.03 Consideration for Units and Special Voting Units.

Subject to the penultimate sentence of this Section 5.03, a Unit shall not be fully paid until the consideration therefor has been received in full by or on behalf of the Trust. The consideration for any Unit shall be paid in money or in property or in past services that are not less in value than the fair equivalent of the money that the Trust would have received if the Unit had been issued for money. In determining whether property or past services are the fair equivalent of consideration paid in money, the Trustees may take into account reasonable charges and expenses of organization and reorganization and payments for property and past services reasonably expected to benefit the Trust. Units may be issued and sold on an instalment basis, in which event beneficial ownership of such Units may be represented by instalment receipts, but shall otherwise be non-assessable. Special Voting Units shall only be issued in connection with the issuance of Exchangeable Securities.

Section 5.04 No Pre-Emptive Rights.

There are no pre-emptive rights attaching to the Units or the Special Voting Units.

Section 5.05 Fractional Units and Special Voting Units.

If as a result of any act of the Trustees hereunder any person becomes entitled to a fraction of a Unit, such person is not entitled to receive a certificate or DRS Advice therefor. Fractional Units and Special Voting Units shall not, except to the extent that they may represent in the aggregate one or more whole Units or Special Voting Units, entitle the holders thereof to notice of or to attend or to vote at, meetings of Unitholders or Special Voting Unitholders. Subject to the foregoing, such fractional Units and Special Voting Units shall have attached thereto the rights, restrictions, conditions and limitations attaching to whole Units or Special Voting Units in the proportion that they bear to a whole Unit or Special Voting Unit, as the case may be.

Section 5.06 Legal Ownership of Assets of the Trust.

The legal ownership of the assets of the Trust and the right to conduct the affairs of the Trust are vested exclusively in the Trustees, and the Unitholders shall have no interest therein other than the beneficial interest in the Trust conferred by their Units issued hereunder as described in Section 1.05, and they shall have no right to compel any partition, division, dividend or distribution of the Trust or any of the assets of the Trust. The Units and Special Voting Units shall be personal property and shall confer upon the holders thereof only the interest and rights specifically set forth in this Declaration of Trust. No Unitholder or Special Voting Unitholder has or is deemed to have any right of ownership in any of the assets of the Trust.

Section 5.07 Allotment and Issue.

Subject to Section 5.03, Section 5.10 and Section 5.11, the Trustees may allot and issue Units and Special Voting Units at such time or times and in such manner (including, in the case of Units, pursuant to any plan from time to time in effect relating to reinvestment by Unitholders of their distributions of the Trust in Units), and for such consideration and to such person, persons or class of persons as the Trustees in their sole discretion shall determine, excepting only that Special Voting Units shall only be issued in connection with or in relation to the issuance of Exchangeable Securities. In the event that Units or Special Voting Units are issued

in whole or in part for consideration other than money, the resolution of the Trustees allotting and issuing such Units or Special Voting Units shall express the fair equivalent in money of the other consideration received.

Section 5.08 Rights, Warrants and Options.

The Trustees may create and issue rights, warrants or options to subscribe for fully paid Units which rights, warrants or options may be exercisable at such subscription price or prices and at such time or times as the Trustees may determine. The rights, warrants or options so created may be issued for such consideration or for no consideration, all as the Trustees may determine. A right, warrant or option shall not be a Unit and a holder thereof shall not be a Unitholder. Upon the approval by the Trustees of any unit option plan for trustees, officers and/or employees of the Trust, the Compensation and Governance Committee may, upon receiving authority from the Trustees, grant options upon the terms and subject to the conditions set forth in such plan.

Section 5.09 Commissions and Discounts.

The Trustees may provide for the payment of commissions or may allow discounts to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for Units or of their agreeing to produce subscriptions therefor, whether absolute or conditional.

Section 5.10 Transferability.

(a) The Series A Units are freely transferable and, other than as provided herein, the Trustees shall not impose any restriction on the transfer of Series A Units. The Trustees shall use all reasonable efforts to obtain and maintain a listing for the Series A Units on one or more stock exchanges in Canada.

(b) The Series B Units are not transferable, except to an affiliate of the initial holder thereof. The Series B Units shall not be listed on any stock exchange.

(c) Special Voting Units shall not be transferable separately and apart from the Exchangeable Securities to which they are attached, and in any event shall be subject to such restrictions on transfer as are stipulated in Section 5.11 and Section 5.17 hereof and/or in any agreement, document or other instrument providing for the creation, issuance and terms of the Exchangeable Securities to which such Special Voting Units are attached. Special Voting Units shall not be listed on any stock exchange.

Section 5.11 Non-Resident Ownership Constraint.

At no time may non-residents of Canada (within the meaning of the Tax Act) and/or partnerships that are not “Canadian partnerships” within the meaning of the Tax Act (collectively, “**Non-Residents**”) be the beneficial owners of 49% or more of the Units and the Trustees shall inform the transfer agent and registrar of this restriction. The transfer agent and registrar may require declarations as to the jurisdictions in which beneficial owners of Units are resident. If the transfer agent and registrar becomes aware, as a result of requiring such declarations as to beneficial ownership, that the beneficial owners of 49% or more of the Units then outstanding are, or may be, Non-Residents or that such a situation is imminent, the transfer agent and registrar will

advise the Trustees and, upon receiving direction from the Trustees, may make a public announcement thereof and shall not accept a subscription for Units from or issue or register a transfer of Units to a person unless the person provides a declaration that the person is not a Non-Resident. If, notwithstanding the foregoing, the transfer agent and registrar determines that 49% or more of the Units are held by Non-Residents, the transfer agent and registrar may, upon receiving a direction and suitable indemnity from the Trustees, send a notice to registered Non-Resident Unitholders chosen in inverse order to the order of acquisition or registration or in such manner as the Trustees may consider equitable and practicable, requiring them to sell their Units or a portion thereof within a specified period of not less than 60 days. If the Unitholders receiving such notice have not sold the specified number of Units or provided the Trustees with satisfactory evidence that they are not Non-Residents within such period, the transfer agent and registrar, upon receiving a direction from the Trustees, may on behalf of such Unitholders sell such Units and, in the interim, shall suspend the voting and distribution rights attached to such Units. Upon such sale the Affected Holders shall cease to be Unitholders and their rights shall be limited to receiving the net proceeds of sale upon surrender of the certificate or DRS Advice representing such Units.

The Trustees' Regulations may include provisions to implement the foregoing.

Section 5.12 Certificates and DRS Advice.

Each Unitholder or their duly authorized agent is entitled to (i) a certificate bearing an identifying serial number in respect of the Units held by them, signed in the manner hereinafter prescribed, or (ii) a DRS Advice, but the Trust is not bound to issue more than one certificate or DRS Advice in respect of a Unit or Units held jointly or in common by two or more persons and delivery of a certificate to one of them shall be sufficient delivery to all. No certificate or DRS Advice shall be issued to evidence any fractional Units. The Special Voting Units will be evidenced only by the certificate(s) or DRS Advice representing the Exchangeable Securities to which they are attached.

Section 5.13 Certificate or DRS Advice Fee.

The Trustees may establish a reasonable fee to be charged for every certificate or DRS Advice issued.

Section 5.14 Form of Certificate or DRS Advice.

The form of certificate representing Units shall be in such form as is from time to time authorized by the Trustees. The form of DRS Advice representing Units shall be in the standard form of the transfer agent for the Units, or such other form as is from time to time authorized by the Trustees.

Section 5.15 Unit Register and Transfer Ledgers to be Maintained.

A register (the "**Register**") shall be kept by, or on behalf and under the direction of the Trustees, which Register shall contain the names and addresses of Unitholders and Special Voting Unitholders, the respective numbers of Units and/or Special Voting Units held by them, the certificate numbers of the certificates or identifying numbers of the DRS Advice of such Units and a record of all transfers of Units and/or Special Voting Units. The Trustees may appoint one or more chartered banks or trust companies to act as transfer agents and to act as registrars for

Units and/or Special Voting Units and may provide for the transfer of Units and/or Special Voting Units in one or more places within Canada, subject in the case of Series B Units to Section 5.10(b) and in the case of Special Voting Units to Section 5.10(c). In the event of such appointment, such transfer agents and registrars shall keep all necessary registers and other books (which may be kept in a bound or looseleaf book or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device) for recording original issues and registering and transferring the Units and/or Special Voting Units. If the Trustees have appointed a registrar and transfer agent for the Units, no certificate or DRS Advice for Units shall be valid unless countersigned or issued by or on behalf of a transfer agent and/or registrar. Only persons whose Units are recorded on the Register shall be entitled to vote or to receive distributions or otherwise exercise or enjoy the rights of Unitholders. Only persons whose Special Voting Units are recorded on the Register shall be entitled to vote or enjoy the rights of Special Voting Unitholders.

Section 5.16 Entry on Register.

Upon any issue of Units or Special Voting Units, the name of the subscriber shall be promptly entered on the Register as the owner of the number of Units or Special Voting Units, as applicable, issued to such subscriber, or if the subscriber is already a Unitholder or Special Voting Unitholder, as the case may be, the Register shall be amended to include their additional Units or Special Voting Units as applicable.

Section 5.17 Transfer of Units.

Subject to the restriction in Section 5.10 hereof, Units shall be for all purposes of the Trust and this Declaration of Trust, personal and moveable property, and shall be transferable at any time and from time to time by endorsement and delivery of the certificates or transfer of the DRS Advice in accordance with the requirements therefor representing the Units, subject to such provisions and conditions as may be prescribed by the Trustees from time to time. No transfer shall be recorded on the Register unless the transferor has executed the instrument of transfer as reproduced in the Unit certificate or in the form and manner required by the DRS Advice and the transferee has delivered to the transfer agent and/or registrar a Unit certificate or DRS Advice representing the Units transferred. Subject to the foregoing, transfers shall be recorded on the Register and a new certificate or DRS Advice for the Units so transferred shall be issued to the transferee and in case of a transfer of only part of the Units represented by any certificate or DRS Advice, a new certificate or DRS Advice for the remaining Units shall be issued to the transferor.

Section 5.18 Successors in Interest to Unitholders.

Any person becoming entitled to any Units or Special Voting Units as a consequence of the death, bankruptcy or incompetence of any Unitholder or Special Voting Unitholder or otherwise by operation of law shall be recorded in the Register as the holder of such Units or Special Voting Units and in the case of Units shall receive a new certificate or DRS Advice therefor upon production of evidence thereof satisfactory to the Trustees and delivery of the existing certificate or DRS Advice to the Trustees or a transfer agent of the Trust, but until such record is made, the Unitholder or Special Voting Unitholder of record shall continue to be and be deemed to be the holder of such Units or Special Voting Units for all purposes whether or not the Trust, the Trustees or the transfer agent or registrar of the Trust shall have actual or other notice of such death, bankruptcy, incompetence or other event.

Section 5.19 Units or Special Voting Units Held Jointly or in Fiduciary Capacity.

The Trust may treat two or more persons holding any Unit or Special Voting Unit as joint tenants of the entire interest therein unless the ownership is expressly otherwise recorded on the Register of the Trust, but no entry shall be made in the Register or on any certificate or DRS Advice that any person is in any other manner entitled to any future, limited or contingent interest in any Unit or Special Voting Unit; provided, however, that any person recorded in the Register as a Unitholder or Special Voting Unitholder may, subject to the provisions herein contained, be described in the Register or on any certificate or DRS Advice as a fiduciary of any kind and any customary words may be added to the description of the holder to identify the nature of such fiduciary relationship.

Section 5.20 Performance of Trusts.

None of the Trustees, officers of the Trust, Unitholders, Special Voting Unitholders or any transfer agent or other agent of the Trust or the Trustees shall have a duty to inquire into any claim that a transfer of a Unit, Special Voting Unit or other security of the Trust was or would be wrongful or that a particular adverse person is the owner of or has an interest in the Unit, Special Voting Unit or other security or any other adverse claim, or be bound to see to the performance of any trust, express, implied or constructive, or of any charge, pledge or equity to which any of the Units, Special Voting Units or other securities or any interest therein are or may be subject, or to ascertain or inquire whether any sale or transfer of any such Units, Special Voting Units or other securities or interest therein by any such Unitholder, Special Voting Unitholder or holder of such security or their personal representatives is authorized by such trust, charge, pledge or equity, or to recognize any person as having any interest therein, except for the person recorded as Unitholder, Special Voting Unitholder or holder of such security.

Section 5.21 Lost Certificates.

In the event that any certificate for Units is lost, stolen, destroyed or mutilated, the Trustees may authorize the issuance of a new certificate or DRS Advice for the same number of Units in lieu thereof. The Trustees may in their discretion, before the issuance of such new certificate or DRS Advice, require the owner of the lost, stolen, destroyed or mutilated certificate, or the legal representative of the owner, to make such affidavit or statutory declaration, setting forth such facts as to the loss, theft, destruction or mutilation as the Trustees deem necessary and may require the applicant to supply to the Trust a "lost certificate" or similar bond in such reasonable amount as the Trustees direct indemnifying the Trustees, the transfer agents and registrars for so doing. The Trustees shall have the power to acquire from an insurer or insurers a blanket lost security bond or bonds in respect of the replacement of lost, stolen, destroyed or mutilated certificates. The owner of the lost, stolen, destroyed or mutilated certificate shall pay all premiums and other sums of money payable for such purpose with such contribution, if any, by those insured as may be determined by the Trustees. If such blanket lost security bond is acquired, the Trustees may authorize and direct (upon such terms and conditions as they from time to time impose) any registrar, transfer agent, trustee or others to whom the indemnity of such bond extends to take such action to replace such lost, stolen, destroyed or mutilated certificates without further action or approval by the Trustees.

Section 5.22 Death of Unitholders.

The death of a Unitholder or Special Voting Unitholder during the continuance of the Trust shall not terminate the Trust or give the personal representatives or the heirs of the estate of the deceased Unitholder or Special Voting Unitholder a right to an accounting or to take any action in the courts or otherwise against other Unitholders, Special Voting Unitholders or the Trustees, officers of the Trust or the property of the Trust, but shall only entitle the personal representatives or the heirs of the estate of the deceased Unitholder to demand and receive, pursuant to the provisions of Section 5.18 hereof, a new certificate or DRS Advice for Units in place of the certificate or DRS Advice held by the deceased Unitholder, or, in the case of a deceased Special Voting Unitholder, confirmation of the record of such deceased Special Voting Unitholder on the Register. Upon the acceptance of such certificate or DRS Advice or confirmation by such personal representatives or the heirs of the estate of the deceased Unitholder or Special Voting Unitholder, such personal representatives or the heirs shall succeed to all rights of the deceased Unitholder or Special Voting Unitholder under this Declaration of Trust.

Section 5.23 Unclaimed Payments.

In the event that the Trustees hold any amounts to be paid to Unitholders, under Article IX or otherwise because such amounts are unclaimed or cannot be paid for any reason, neither the Trustees nor any distribution disbursing agent shall be under any obligation to invest or reinvest the same and shall only be obligated to hold the same in a current or other non-interest bearing account with a chartered bank or trust company, pending payment to the person or persons entitled thereto. The Trustees shall, as and when required by law, and may at any time prior to such required time, pay all or part of such amounts so held to a court in the province where the Trust has its principal office or to the Public Trustee (or other similar government official or agency) in the province where the Trust has its principal office whose receipt shall be a good acquaintance and discharge of the obligations of the Trustees.

Section 5.24 Repurchase of Units.

The Trust shall be entitled to purchase for cancellation at any time the whole or from time to time any part of the outstanding Units, at a price per Unit and on a basis determined by the Trustees in compliance with all applicable securities laws, regulations or policies or the policies of any applicable stock exchange.

Section 5.25 Instalment Receipts.

The Trust shall be entitled to exercise all rights to which it is entitled under instalment receipt agreements in the event of non-payment of the final instalment by a registered holder of an instalment receipt.

Section 5.26 Take-Over Bids.

(a) If within 120 days after the date of a take-over bid the bid is accepted by the holders of not less than 90% of the Units, other than Units held at the date of the take-over bid by or on behalf of the offeror or an affiliate or associate of the offeror, the offeror is entitled, on complying with this Section, to acquire the Units held by the dissenting offerees.

(b) An offeror may acquire Units held by a dissenting offeree by sending by registered mail within 60 days after the date of termination of the take-over bid and in any event within 180 days after the date of the take-over bid, an offeror's notice to each dissenting offeree stating that:

- (i) the offerees holding more than 90% of the Units to which the bid relates accepted the take-over bid;
- (ii) the offeror is bound to take up and pay for or has taken up and paid for the Units of the offerees who accepted the take-over bid;
- (iii) a dissenting offeree is required to elect:
 - (A) to transfer their Units to the offeror on the terms on which the offeror acquired the Units of the offerees who accepted the take-over bid; or
 - (B) to demand payment of the fair value of their Units in accordance with subsections 5.26(j) to 5.26(s) by notifying the offeror within 20 days after they receive the offeror's notice;
- (iv) a dissenting offeree who does not notify the offeror in accordance with subsection 5.26(b)(iii)(B) is deemed to have elected to transfer their Units to the offeror on the same terms that the offeror acquired the Units from the offerees who accepted the take-over bid; and
- (v) a dissenting offeree must send their Units to which the take-over bid relates to the Trust within 20 days after they receive the offeror's notice.

(c) Concurrently with sending the offeror's notice under subsection 5.26(b), the offeror shall send to the Trust a notice of adverse claim disclosing the name and address of the offeror and the name of the dissenting offeree with respect to each Unit held by a dissenting offeree.

(d) A dissenting offeree to whom an offeror's notice is sent under subsection 5.26(b) shall, within 20 days after they receive that notice:

- (i) send the certificates or DRS Advice representing their Units to the Trust; and
- (ii) elect:
 - (A) to transfer the Units to the offeror on the terms on which the offeror acquired the Units of the Unitholders who accepted the take-over bid; or
 - (B) to demand payment of the fair value of the Units in accordance with subsections 5.26(j) to 5.26(s) by notifying the offeror within those 20 days.

(e) A dissenting offeree who does not notify the offeror in accordance with subsection 5.26(d)(ii)(B) is deemed to have elected to transfer the Units to the offeror on the same terms on which the offeror acquired the Units from the Unitholders who accepted the take-over bid.

(f) Within 20 days after the offeror sends an offeror's notice under subsection 5.26(b), the offeror shall pay or transfer to the Trust the amount of money or other consideration that the offeror would have had to pay or transfer to a dissenting offeree if the dissenting offeree had elected to accept the take-over bid under subsection 5.26(d)(ii)(A).

(g) The Trust is deemed to hold in trust for the dissenting Unitholder the money or other consideration it receives under subsection 5.26(f), and the Trust shall deposit the money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation or guaranteed by the Quebec Deposit Insurance Board, and shall place the other consideration in the custody of a bank or such other body corporate.

(h) If the Trust is the offeror, it is deemed to hold in trust for the dissenting offeree the money and other consideration that it would have had to pay or transfer to a dissenting offeree if the dissenting offeree had elected to accept the take-over bid under subsection 5.26(d)(ii)(A) and the Trust shall, within 20 days after the offeror's notice is sent, deposit the money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation or guaranteed by the Quebec Deposit Insurance Board, and shall place the other consideration in the custody of a bank or such other body corporate.

(i) Within 30 days after the offeror sends an offeror's notice under subsection 5.26(b), the Trust shall:

- (i) issue to the offeror a certificate or DRS Advice in respect of the Units that were held by dissenting offerees;
- (ii) give to each dissenting offeree who elects to accept the take-over bid terms under subsection 5.26(d)(ii)(A) and who sends their certificates or DRS Advice representing their Units as required under subsection 5.26(d)(i), the money or other consideration to which they are entitled, disregarding fractional Units, if any, which may be paid for in money; and
- (iii) send to each dissenting offeree who has not sent their certificates or DRS Advice representing their Units as required under subsection 5.26(d) a notice stating that:
 - (A) their Units have been cancelled;
 - (B) the Trust or some designated person holds in trust for them the money or other consideration to which they are entitled as payment for or in exchange for their Units; and

(C) the Trust will, subject to subsections 5.26(j) to 5.26(s), send that money or other consideration to them forthwith after receiving their Units.

(j) If a dissenting offeree has elected to demand payment of the fair value of their Units under subsection 5.26(d)(ii)(B), the offeror may, within 20 days after it has paid the money or transferred the other consideration under subsection 5.26(f), apply to a court to fix the fair value of the Units of that dissenting offeree.

(k) If an offeror fails to apply to a court under subsection 5.26(j), a dissenting offeree may apply to a court for the same purpose within a further period of 20 days.

(l) Where no application is made to a court under subsection 5.26(k) within the period set out in that subsection, a dissenting offeree is deemed to have elected to transfer their Units to the offeror on the same terms that the offeror acquired the Units from the offerees who accepted the take-over bid.

(m) An application under subsection 5.26(j) or 5.26(k) shall be made to a court having jurisdiction in the place where the Trust has its registered office or in the province where the dissenting offeree resides if the Trust carries on business in that province.

(n) A dissenting offeree is not required to give security for costs in an application made under subsection 5.26(j) or 5.26(k).

(o) On an application under subsection 5.26(j) or 5.26(k):

(i) all dissenting offerees, referred to in subsection 5.26(d)(ii)(B) whose Units have not been acquired by the offeror shall be joined as parties and shall be bound by the decision of the court; and

(ii) the offeror shall notify each affected dissenting offeree of the date, place and consequences of the application and of their right to appear and be heard in person or by counsel.

(p) On an application to a court under subsection 5.26(j) or 5.26(k) the court may determine whether any other person is a dissenting offeree who should be joined as a party, and the court shall then fix a fair value for the Units of all dissenting offerees.

(q) A court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the Units of a dissenting offeree.

(r) The final order of the court shall be made against the offeror in favour of each dissenting offeree and for the amount for their Units as fixed by the court.

(s) In connection with proceedings under this Section, a court may make any order it thinks fit and, without limiting the generality of the foregoing, it may:

(i) fix the amount of money or other consideration that is required to be held in trust under subsection 5.26(g) or (h);

- (ii) order that money or other consideration be held in trust by a person other than the Trust;
- (iii) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date they send or deliver their Unit certificates or DRS Advice under subsection 5.26(d) until the date of payment; and
- (iv) order that any money payable to a Unitholder who cannot be found be paid to the Receiver General.
- (t) If a Unitholder does not receive an offeror's notice under Section 5.26(b), the Unitholder may:
 - (i) within 90 days after the date of termination of the take-over bid; or
 - (ii) if the Unitholder did not receive an offer pursuant to the take-over bid, within 90 days after the later of:
 - (A) the date of termination of the take-over bid; and
 - (B) the date on which the Unitholder learned of the take-over bid,

require the offeror to acquire those Units.

(u) If a Unitholder requires the offeror to acquire the Units under Section 5.26(t), the offeror shall acquire the Units on the same terms under which the offeror acquired or will acquire the Units of the Unitholders who accepted the take-over bid.

Section 5.27 Offers.

If an offer, issuer bid (other than an issuer bid exempt from the formal bid requirements under applicable securities laws), take-over bid (other than a take-over bid exempt from the formal bid requirements under applicable securities laws) or similar transaction with respect to the Units or Series A Units, as the case may be, is proposed by the Trust or is proposed to the Trust or Unitholders and is recommended by the Trustees, or is otherwise effected or to be effected, whether or not with the consent or approval of the Trustees (each, an “Offer”), and the Exchangeable Securities and/or Series B Units are not acquired by the related issuing entity in accordance with their terms or exchanged in accordance with the applicable exchange agreement, the Trust will, to the extent possible in the circumstances, expeditiously and in good faith, take all such actions and do all such things as are necessary or desirable to enable and permit holders of Exchangeable Securities and/or Series B Units, as applicable, to participate in such Offer to the same extent and on an economically equivalent basis as the holders of Series A Units or Units, as applicable, without discrimination. Without limiting the generality of the foregoing, the Trust will, to the extent possible in the circumstances, expeditiously and in good faith, ensure that holders of Exchangeable Securities and/or Series B Units, as applicable, may participate in such Offer without being required to exercise their right to exchange their Exchangeable Securities and/or Series B Units, as the case may be (or, if so required, to ensure that any such exchange will be effective only upon, and will be conditional upon, the successful completion of the Offer and only to the extent necessary to tender to or deposit under the Offer). In such event, the provisions of

Section 5.26 shall apply, *mutatis mutandis*, in respect of the applicable Exchangeable Securities and/or Series B Units, as applicable, held by dissenting offerees.

Section 5.28 Book-Based System.

Units may be represented in the form of one or more fully registered unit certificates held by, or on behalf of, CDS, as custodian of such certificates for the participants of CDS, registered in the name of CDS, or its nominee, and registration of ownership and transfers of Units may be effected to the book-based system administered by CDS.

ARTICLE VI
MEETINGS OF UNITHOLDERS AND SPECIAL VOTING UNITHOLDERS

Section 6.01 Annual Meeting.

There shall be an annual meeting of the Unitholders and Special Voting Unitholders at such time and place as the Trustees shall prescribe for the purpose of electing Trustees, appointing the auditors of the Trust and transacting such other business as the Trustees may determine or as may properly be brought before the meeting. The annual meeting of Unitholders and Special Voting Unitholders shall be held after delivery to the Unitholders and Special Voting Unitholders of the annual report referred to in Section 16.07 and, in any event, within 180 days after the end of each fiscal year of the Trust (unless otherwise approved by a majority of the Trustees and in compliance with applicable securities laws and any stock exchange requirements). Notwithstanding the foregoing, the Trustees may apply to the court for an order extending the time for calling an annual meeting.

Section 6.02 Other Meetings.

The Trustees shall have power at any time to call special meetings of the Unitholders and Special Voting Unitholders at such time and place as the Trustees may determine. Unitholders and Special Voting Unitholders holding in the aggregate not less than 5% of the outstanding Units and Special Voting Units of the Trust may requisition the Trustees to call a special meeting of the Unitholders and Special Voting Unitholders for the purposes stated in the requisition. The requisition shall state in reasonable detail the business to be transacted at the meeting and shall be sent to each of the Trustees at the principal office of the Trust. Upon receiving the requisition, the Trustees shall call a meeting of Unitholders and Special Voting Unitholders to transact the business referred to in the requisition, unless (a) a record date for a meeting of the Unitholders and Special Voting Unitholders has been fixed and notice thereof has been given to each stock exchange in Canada on which the Units are listed for trading; (b) the Trustees have called a meeting of the Unitholders and Special Voting Unitholders and have given notice thereof pursuant to Section 6.03; or (c) in connection with the business as stated in the requisition:

(a) it clearly appears that the matter covered by the requisition submitted by the Unitholder or Special Voting Unitholder is primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the Trust or its Trustees, officers or security holders, or primarily for the purpose of promoting general economic, political, racial, religious, social or similar causes;

(b) it clearly appears to the Trustees that the matter covered by the requisition does not relate in a significant way to the business or affairs of the Trust;

(c) not more than the two years before the receipt of the requisition, a person failed to present, in person or by proxy, at a meeting of Unitholders and Special Voting Unitholders, a matter covered by a requisition that at the person's request, had been included in an information circular relating to the meeting;

(d) substantially the same matter covered by the requisition was submitted to Unitholders and Special Voting Unitholders in an information circular (including a dissident's information circular) relating to a meeting of Unitholders and Special Voting Unitholders held not more than two years before the receipt of the requisition and the prior requisition was defeated; or

(e) the rights conferred by this Section 6.02 are being abused to secure publicity.

If the Trustees do not within 21 days after receiving the requisition call a meeting, any Unitholder or Special Voting Unitholder who signed the requisition may call the meeting in accordance with the provisions of Section 6.03 and Section 6.10 and the Trustees' Regulations, *mutatis mutandis*. If there shall be no Trustees, the officers of the Trust shall promptly call a special meeting of the Unitholders and Special Voting Unitholders for the election of successor Trustees. The phrase "meeting of the Unitholders and Special Voting Unitholders" wherever it appears in this Declaration of Trust shall mean and include both an annual meeting and any other meeting of Unitholders and Special Voting Unitholders.

Section 6.03 Notice of Meeting of Unitholders and Special Voting Unitholders.

Notice of all meetings of the Unitholders and Special Voting Unitholders shall be mailed or delivered by the Trustees to each Unitholder and Special Voting Unitholder at their address appearing in the Register, to each Trustee and to the auditors of the Trust not less than 21 nor more than 60 days before the meeting. Notice of any meeting of the Unitholders and Special Voting Unitholders shall state the purposes of the meeting.

If a meeting is adjourned for less than thirty days it is not necessary to give notice of the adjourned meeting, other than by announcement at the earliest meeting that is adjourned. If a meeting of Unitholders and Special Voting Unitholders is adjourned by one or more adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting.

All business to be conducted at a special meeting of Unitholders and Special Voting Unitholders and all business to be transacted at an annual meeting of Unitholders and Special Voting Unitholders, except consideration of the financial statements, auditor's report, election of Trustees and re-appointment of the incumbent auditor, is deemed to be special business. Notice of a meeting of Unitholders and Special Voting Unitholders at which special business is to be transacted shall state:

(a) the nature of the business in sufficient detail to permit a Unitholder or Special Voting Unitholder to form a reasonable judgment thereon; and

(b) the text of any resolution (or a summary thereof) that requires the approval of two-thirds of the votes cast by Unitholders or Special Voting Unitholders who vote in respect of that resolution to be submitted to the meeting.

Section 6.04 Unitholder Proposals.

Subject to subsections (a) and (b), a registered holder or beneficial owner of Units or Special Voting Units may (i) submit written notice to the Trust of any matter that the person proposes to raise at an annual meeting of Unitholders and Special Voting Unitholders (a “**Proposal**”) and (ii) discuss at the meeting any matter with respect to which the person would have been entitled to submit a Proposal.

(a) To be eligible to submit a Proposal, a person:

(i) must be, for at least the six-month period immediately before the day on which the person submits the Proposal, the registered holder or the beneficial owner of (i) not less than 1% of the combined total number of outstanding Units or Special Voting Units, as of the day on which the person submits a Proposal, or (ii) Units or Special Voting Units whose combined total fair market value, as determined at the close of business on the day before the person submits the Proposal, is at least \$2,000; or

(ii) must have the support of persons who, in the aggregate, and including or not including the person that submits the Proposal, have been, for at least the six-month period immediately before the day on which the person submits the Proposal, the registered holders or beneficial owners of (i) not less than 1% of the combined total number of outstanding Units or Special Voting Units, as of the day on which the person submits the Proposal, or (ii) Units or Special Voting Units whose combined total fair market value, as determined at the close of business on the day before the person submits the Proposal, is at least \$2,000.

(b) A Proposal must be accompanied by the following information:

(i) the name and address of the person submitting the Proposal and the person’s supporters, if applicable; and

(ii) the number of Units or Special Voting Units held or owned by the person submitting the Proposal and the person’s supporters, if applicable, and the date the Units or Special Voting Units were acquired.

(c) If requested by the Trust within 14 days of the receipt of the Proposal, a person who submits a Proposal must provide proof, within 21 days following the day on which the person receives the Trust’s request, or if the request was mailed to the person, within 21 days after the postmark date stamped on the envelope containing the request, that the person meets the requirements set out in subsection (a).

(d) The Trust shall set out the Proposal in its proxy circular delivered in connection with its annual meeting or attach the Proposal thereto.

(e) If so requested by the person who submits the Proposal, the Trust shall include in, or attach to, its proxy circular delivered in connection with its annual meeting, a statement in support of the Proposal by the person and the name and address of the person making the Proposal. The statement and Proposal so included must not exceed 500 words excluding the information required by subsection (b).

(f) A Proposal may not include nominations for the election of Trustees and a Unitholder shall not have the right to make nominations at the meeting, unless such nomination is made in accordance with the provisions of Section 6.14.

(g) The Trust shall not be required to comply with subsections (d) and (e) if:

(i) the Proposal is submitted less than 90 days before the anniversary date of the notice of meeting that was sent to Unitholders and Special Voting Unitholders in connection with the Trust's previous annual meeting of Unitholders and Special Voting Unitholders;

(ii) it clearly appears that (A) the primary purpose of the Proposal is to enforce a personal claim or redress a personal grievance against the Trust, the Trustees, its officers, the Unitholders or other securityholders of the Trust, or (B) the Proposal does not relate in a significant way to the business or affairs of the Trust;

(iii) not more than two years preceding the receipt of such Proposal, the proposing person failed to present, in person or by proxy, at a meeting of Unitholders and Special Voting Unitholders, a Proposal that, at the person's request, had been included in a proxy circular relating to a meeting of the Unitholders and Special Voting Unitholders;

(iv) substantially the same proposal was submitted to Unitholders and Special Voting Unitholders in a proxy circular relating to a meeting of the Unitholders and Special Voting Unitholders held within five years preceding the receipt of the Proposal and the matter covered by the Proposal did not receive the required support at that meeting. For the purposes hereof, the required support for a Proposal is:

(A) 3% of the total number of Units and Special Voting Units voted, if the Proposal has been introduced at only one annual meeting of Unitholders and Special Voting Unitholders;

(B) 6% of the total number of Units and Special Voting Units voted at the last meeting at which the matter was submitted to Unitholders and Special Voting Unitholders, if the Proposal was introduced at two annual meetings of Unitholders and Special Voting Unitholders; and

(C) 10% of the total number of Units and Special Voting Units voted at the last meeting at which the matter was submitted to Unitholders and Special Voting Unitholders, if the Proposal was introduced at

three or more annual meetings of Unitholders and Special Voting Unitholders; or

(v) the rights conferred by this Section are being abused to secure publicity.

(h) If a person who submits a Proposal fails to continue to hold or own the number of Units or Special Voting Units referred to in subsection (a) up to and including the day of the meeting, the Trust is not required to set out in its proxy circular, or attach to it, any proposal submitted by that person for any meeting held within two years following the date of the meeting.

(i) Neither the Trust nor any person acting on its behalf will incur any liability to Unitholders or any other person by reason only of circulating a Proposal or statement in compliance with this Section.

(j) If the Trust refuses to include a Proposal in its proxy circular, it shall, within 21 days of the later of receipt of the Proposal or proof of ownership under subsection (c), as the case may be, notify in writing the person submitting the Proposal of its intention to omit the Proposal from the Trust's proxy circular and of the reasons for the refusal.

(k) On the application of a person submitting a Proposal who claims to be aggrieved by the Trust's refusal under subsection (j), a court may restrain the holding of the meeting to which the Proposal is sought to be presented and make any further order it thinks fit.

(l) The Trust or any person claiming to be aggrieved by a Proposal may apply to a court for an order permitting the Trust to omit the Proposal from the proxy circular, and the court, if it is satisfied that subsection (g) applies, may make such order as it thinks fit.

Section 6.05 Quorum; Chair.

A quorum for any meeting of Unitholders and Special Voting Unitholders shall be individuals present not being less than two in number and being Unitholders and/or Special Voting Unitholders, or representing by proxy Unitholders and/or Special Voting Unitholders, who hold in the aggregate not less than 25% of the votes attached to all outstanding Series A Units and Special Voting Units as at the record date for such meeting. If a quorum is present at the opening of a meeting of Unitholders and Special Voting Unitholders, the Unitholders and/or Special Voting Unitholders present may proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting. In the event of a quorum not being present at the appointed place on the date for which a meeting is called within 30 minutes after the time fixed for the holding of such meeting, the meeting, if convened on the requisition of the Unitholders and/or Special Voting Unitholders, shall be dissolved, but in any other case shall stand adjourned to such day being not less than 10 days later and to such place and time as may be appointed by the chair of the meeting. If at such adjourned meeting a quorum as above defined is not present, the Unitholders and Special Voting Unitholders present either personally or by proxy will be deemed to form a quorum, and any business may be brought before or dealt with at such an adjourned meeting that might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

The chair of any meeting at which a quorum is present may, with the consent of the majority of the Unitholders and Special Voting Unitholders present in person or by proxy, adjourn

any such meeting and no notice of any adjournment need be given. The Chair, or any Trustee determined by the Trustees, shall be the chair of any meeting of the Unitholders and Special Voting Unitholders.

Section 6.06 Voting.

Holders of Series A Units and Special Voting Units may attend and vote at all meetings of the Unitholders and Special Voting Unitholders either in person or by proxy. Each Series A Unit shall be entitled to one vote at all meetings of the Unitholders and Special Voting Unitholders. Each Special Voting Unit shall be entitled to that number of votes equal to the number of Units into which the Exchangeable Securities to which such Special Voting Unit relates are exchangeable or convertible (other than in respect of Exchangeable Securities which have been so exchanged, converted or cancelled) at all meetings of Unitholders and Special Voting Unitholders or in respect of any written resolution of Unitholders and Special Voting Unitholders. The rights of holders of Series B Units with respect to voting are set out in Section 5.01(b). Any action to be taken by the Unitholders and Special Voting Unitholders shall, except as otherwise required by this Declaration of Trust or by law, be authorized when approved by a majority of the votes cast at a meeting of the Unitholders and Special Voting Unitholders by Unitholders and Special Voting Unitholders (in aggregate) entitled to vote thereon. The Chair of any such meeting shall not have a second or casting vote.

Section 6.07 Matters on which Unitholders and Special Voting Unitholders Shall Vote.

Subject to Section 15.02(c), none of the following shall occur unless the same has been duly approved by the holders of Series A Units and Special Voting Unitholders at a meeting duly called and held:

- (a) except as provided in Section 2.01, Section 2.03, Section 2.05 or Section 2.06, the appointment, election or removal of Trustees;
- (b) except as provided in Section 16.04, the appointment or removal of auditors of the Trust;
- (c) any amendment to this Declaration of Trust (except as provided in Section 4.05 or Section 12.01 (but subject to Section 12.02));
- (d) the sale, lease, transfer, or exchange of all or substantially all of the property and assets of the Trust (other than in the ordinary course of business of the Trust or as a part of an internal reorganization of the assets of the Trust as approved by the Trustees), which shall require approval by the affirmative vote of at least two-thirds of the votes cast at a meeting of Unitholders (including, for greater certainty, holders of Series B Units) and Special Voting Unitholders entitled to vote called for that purpose;
- (e) the termination of the Trust pursuant to Section 13.02; or
- (f) any other matters which:
- (i) expressly require the approval of the Unitholders and Special Voting Unitholders pursuant to this Declaration of Trust; or

- (ii) the Trustees determine to present to the Unitholders and Special Voting Unitholders for their approval or ratification, notwithstanding that there is no express requirement for such approval or ratification hereunder.

Nothing in this Section, however, shall prevent the Trustees from submitting to a vote of Unitholders and Special Voting Unitholders any matter which they deem appropriate. Except with respect to the matters specified in this Section, Section 12.02, Section 12.05 and Section 13.02 or matters submitted to a vote of the Unitholders and Special Voting Unitholders by the Trustees, no vote of the Unitholders and Special Voting Unitholders shall in any way bind the Trustees.

Section 6.08 No Breach.

Notwithstanding any other provision of this Declaration of Trust, Unitholders or Special Voting Unitholders shall have no power to effect any amendment to this Declaration of Trust which would require the Trustees to take action or conduct the affairs of the Trust in a manner which would constitute a breach or default by the Trust or the Trustees under any agreement binding on or obligation of, the Trust or the Trustees.

Section 6.09 Class Approval.

If any business to be transacted at a meeting of Unitholders and Special Voting Unitholders would affect the rights of Unitholders and/or Special Voting Unitholders of one or more classes (or, subject to clause (b)(iii) below, series) in a manner different from the Unitholders of any other class (or, subject to clause (b)(iii) below, series) then:

(a) reference to such fact, indicating each class so affected, shall be made in the notice of such meeting; and

(b) Unitholders and/or Special Voting Unitholders of a class so affected shall not be bound or adversely affected by any action to be taken at such meeting unless in addition to compliance with the other provisions of this Section:

- (i) there are present or in person or by proxy Unitholders or Special Voting Unitholders of such class who hold in the aggregate not less than 10% of the votes attached to such class or series, subject to the provisions of this Declaration of Trust as to quorum at adjourned meetings;
- (ii) the resolution is passed by the affirmative vote of a majority, or as applicable, two-thirds of the Unitholders or Special Voting Unitholders of such class (depending upon whether the business which is the subject of the resolution is one that generally requires, in the first instance, the affirmative vote of a majority of the Unitholders or Special Voting Unitholders, or, in the second case, two-thirds of the Unitholders or Special Voting Unitholders); and
- (iii) the Unitholders or Special Voting Unitholders of a series of Units or Special Voting Units, as applicable, of a class are entitled to vote separately as a series under this Section 6.09 only if such series is affected by an

amendment in a manner different from the other Units or Special Voting Units of the same class.

Section 6.10 Record Dates.

For the purpose of determining the Unitholders and Special Voting Unitholders who are entitled to receive notice of and vote at any meeting or any adjournment thereof, or who are entitled to receive any distribution, or for the purpose of any other action, the Trustees may from time to time fix a date not more than 60 days prior to the date of any meeting of the Unitholders and Special Voting Unitholders or distribution or other action as a record date for the determination of Unitholders and Special Voting Unitholders entitled to receive notice of and to vote at such meeting or any adjournment thereof or (in the case of Unitholders only) to receive such distribution or to be treated as Unitholders and Special Voting Unitholders of record for purposes of such other action, and any Unitholder or Special Voting Unitholder who was a Unitholder or Special Voting Unitholder at the time so fixed shall be entitled to receive notice of and vote at such meeting or any adjournment thereof or (in the case of Unitholders only) to receive such distribution, even though they have since that date disposed of their Units or Special Voting Units, and no Unitholder or Special Voting Unitholder becoming such after that date shall be entitled to receive notice of and vote at such meeting or any adjournment thereof or (in the case of Unitholders only) to receive such distribution or to be treated as a Unitholder or Special Voting Unitholder of record for purposes of such other action.

Section 6.11 Court Requisitioned Meetings.

A Unitholder or Special Voting Unitholder who is entitled to vote at a meeting of Unitholders and Special Voting Unitholders may apply to a court to order a meeting of the Unitholders and Special Voting Unitholders to be called, held, and conducted in the manner that the court directs, if:

- (a) it is impracticable to call the meeting within the time or in the manner in which those meetings are to be called pursuant to this Declaration of Trust;
- (b) it is impracticable to conduct the meeting in the manner required by this Declaration of Trust; or
- (c) the court thinks that the meeting should be called, held and conducted within the time or in the manner it directs for any other reason.

Without restricting the generality of this Section 6.11, the court may order that the quorum required by this Declaration of Trust be varied or dispensed with at a meeting called, held and conducted pursuant to this Section.

Section 6.12 Proxies.

Whenever the vote or consent of Unitholders and/or Special Voting Unitholders is required or permitted under this Declaration of Trust, such vote or consent may be given either directly by the Unitholder, Special Voting Unitholder or by a proxy in such form as the Trustees may prescribe from time to time. A proxy need not be a Unitholder or Special Voting Unitholder. The Trustees may solicit such proxies from the Unitholders or Special Voting Unitholders or any

of them in any matter requiring or permitting the Unitholders' or Special Voting Unitholders' vote, approval or consent.

The Trustees may adopt, amend or repeal such rules relating to the appointment of proxyholders and the solicitation, execution, validity, revocation and deposit of proxies, as they in their discretion from time to time determine.

An instrument of proxy executed in compliance with the foregoing shall be valid unless challenged at the time of or prior to its exercise and the person challenging the instrument shall have the burden of proving, to the satisfaction of the Chair of the meeting at which the instrument is proposed to be used, that the instrument of proxy is invalid. Any decision of the Chair of the meeting in respect of the validity of an instrument of proxy shall be final and binding upon all persons. An instrument of proxy shall be valid only at the meeting with respect to which it was solicited or any adjournment(s) or postponement(s) thereof.

A vote cast in accordance with any proxy shall be valid notwithstanding the death, incapacity, insolvency or bankruptcy of the Unitholder or Special Voting Unitholder giving the proxy or the revocation of the proxy unless written notice of the death, incapacity, insolvency or bankruptcy has been received by the Chair of the meeting prior to the time the vote is cast or, in the case of revocation, the revocation of the proxy is effected pursuant to this Section 6.12.

A Unitholder or Special Voting Unitholder may revoke a proxy:

(a) by depositing an instrument or act in writing executed or, in Quebec, signed by the Unitholder or Special Voting Unitholder or by the Unitholder's or Special Voting Unitholder's personal representative authorized in writing:

- (i) at the principal office of the Trust at any time up to and including the last business day preceding the day of the meeting, or an adjournment thereof, at which the proxy is to be used; or
 - (ii) with the Chair of the meeting on the day of the meeting prior to the time the vote is cast or any adjournment thereof; or
- (b) in any other manner permitted by law.

Section 6.13 Resolution in Lieu of Meeting.

Subject to Section 2.05, a resolution signed in writing by all of the Unitholders and Special Voting Unitholders entitled to vote on that resolution at a meeting of Unitholders and Special Voting Unitholders is as valid as if it had been passed at a meeting of Unitholders and Special Voting Unitholders.

Section 6.14 Nomination of Trustees.

(a) Only persons who are nominated in accordance with the following procedures shall be eligible for election as Trustees of the Trust. Nominations of persons for election as a Trustee may be made at any annual meeting of Unitholders and Special Voting Unitholders, or at any special meeting of Unitholders and Special Voting Unitholders, if one of the purposes for which the special meeting was called was the election of Trustees:

- (i) by or at the direction of the Trustees, including pursuant to a notice of meeting;
- (ii) by or at the direction or request of one or more Unitholders pursuant to a requisition of the Unitholders or Special Voting Unitholders made in accordance with Section 6.02; or
- (iii) by any person (a “**Nominating Unitholder**”) who:
 - (A) at the close of business on the date of the giving of the notice provided for below in this Section 6.14 and on the record date for notice of such meeting, is entered in the Register as a holder of one or more Units or Special Voting Units carrying the right to vote at such meeting or who beneficially owns Units or Special Voting Units that are entitled to be voted at such meeting; and
 - (B) who complies with the notice procedures set forth below in this Section 6.14.

(b) In addition to any other applicable requirements, for a nomination to be made by a Nominating Unitholder, the Nominating Unitholder must have given timely notice thereof to the Trustees in the manner prescribed by this Declaration of Trust. Furthermore, if such notice is made on a day which is not a business day or later than 5:00 p.m. (Toronto Time) on a day which is a business day, then such notice shall be deemed to have been made on the subsequent day that is a business day.

(c) To be timely, a Nominating Unitholder’s notice to the Trustees must be made:

- (i) in the case of an annual meeting of Unitholders and Special Voting Unitholders, not less than 30 days prior to the date of the annual meeting of Unitholders and Special Voting Unitholders; provided, however, that in the event that the annual meeting of Unitholders and Special Voting Unitholders is to be held on a date that is less than 50 days after the date (the “**Notice Date**”) on which the first public announcement of the date of the annual meeting was made, notice by the Nominating Unitholder may be made not later than the close of business on the tenth (10th) day following the Notice Date; and
- (ii) in the case of a special meeting (which is not also an annual meeting) of Unitholders and Special Voting Units called for the purpose of electing Trustees (whether or not called for other purposes), not later than the close of business on the fifteenth (15th) day following the day on which the first public announcement of the date of the special meeting of Unitholders and Special Voting Unitholders was made.

(d) To be in proper written form, a Nominating Unitholder's notice to the Trustees must set forth:

- (i) as to each person whom the Nominating Unitholder proposes to nominate for election as a Trustee:
 - (A) the name, age, business address and residential address of the person;
 - (B) the principal occupation or employment of the person;
 - (C) the class or series and number of Units of the Trust which are controlled or which are owned beneficially or of record by the person as of the record date for the meeting of Unitholders and Special Voting Unitholders (if such date shall then have been made publicly available and shall have occurred) and as of the date of such notice;
 - (D) any other information relating to the person that would be required to be disclosed in a dissident's proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable securities laws; and
- (ii) as to the Nominating Unitholder giving the notice, any proxy, contract, arrangement, understanding or relationship pursuant to which such Nominating Unitholder has a right to vote any Units or Special Voting Units of the Trust and any other information relating to such Nominating Unitholder that would be required to be made in a dissident's proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable securities laws.

(e) No person shall be eligible for election as a Trustee of the Trust unless nominated in accordance with the provisions of this Section 6.14; provided, however, that nothing in this Section 6.14 shall be deemed to preclude discussion by a Unitholder or Special Voting Unitholder (as distinct from the nomination of Trustees) at a meeting of Unitholders and Special Voting Unitholders of any matter in respect of which it would have been entitled to submit to a vote pursuant to the terms and conditions contained in this Declaration of Trust. The chair of the applicable meeting shall have the power and duty to determine whether a nomination was made in accordance with the procedures set forth in the foregoing provisions and, if any proposed nomination is not in compliance with such foregoing provisions, to declare that such defective nomination shall be disregarded.

(f) For purposes of this Section 6.14, "public announcement" shall mean disclosure in a press release reported by a national news service in Canada, or in a document publicly filed by the Trust under its profile on the System for Electronic Document Analysis and Retrieval (SEDAR) at www.sedar.com.

Notwithstanding the foregoing, the Trustees may, in their sole discretion, waive any requirement in this Section 6.14.

Section 6.15 Meetings by Telephone, Electronic or Other Communications Facility.

Any meeting of Unitholders and Special Voting Unitholders may be held entirely by means of a telephonic, electronic or other communications facility. A person who votes at the meeting or establishes a communications link to the meeting is deemed to be present in person at the meeting. Any such meeting of the Unitholders and Special Voting Unitholders shall be deemed to be held at the place where the registered office of the Trust is located. The rules and procedures for any meeting of Unitholders and Special Voting Unitholders held by means of a telephonic, electronic or other communications facility shall be such reasonable rules and procedures as are determined by the Trustees and such rules and procedures shall be binding upon all parties participating in the meeting.

Section 6.16 Meaning of Outstanding.

Every Unit and Special Voting Unit issued, certified and delivered hereunder will be deemed to be outstanding until it is cancelled or delivered to the Trustees or transfer agent for cancellation, provided that:

(a) when a new certificate has been issued in substitution for a Unit or Special Voting Unit certificate that has been lost, stolen, mutilated or destroyed, only the later of such certificates will be counted for the purposes of determining the number of Units and Special Voting Units outstanding;

(b) for the purpose of any provision of this Declaration of Trust entitling holders of outstanding Units and Special Voting Units to vote, sign consents, requisitions or other instruments or take any action under this Declaration of Trust, Units or Special Voting Units owned directly or indirectly, legally or equitably, by the Trust, or any Subsidiary thereof will be disregarded, except that:

- (i) for the purpose of determining whether the Trustees will be protected in relying on any such vote, consent, requisition or other instrument or action, only the Units and Special Voting Units that the Trustees know are so owned will be so disregarded;
- (ii) Units and Special Voting Units so owned that have been pledged in good faith other than to the Trust or a Subsidiary thereof will not be so disregarded if the pledgee establishes to the satisfaction of the Trustees the pledgee's right to vote such Units and Special Voting Units in its discretion free from the control of the Trust or any Subsidiary thereof; and
- (iii) for the purposes of this Section 6.16(b), any Trustee, any officer of the Trust or the Trust's transfer agent will provide a certificate that will state the number of Units and Special Voting Units and the certificate numbers of certificates, if certificates are issued, held by the Trust or any Subsidiary thereof. The Trustees will be entitled to rely on such certificate in order to disregard the votes of any of the parties mentioned above.

ARTICLE VII MEETINGS OF THE TRUSTEES

Section 7.01 Trustees May Act Without Meeting.

The Trustees may act with or without a meeting. Any action of the Trustees may be taken at a meeting by vote or without a meeting by written consent signed by all of the Trustees.

Section 7.02 Notice of Meeting.

Meetings of the Trustees may be held from time to time upon the giving of notice by the Chief Executive Officer, the Secretary or other officer of the Trust or any single Trustee. Regular meetings of the Trustees may be held without call or notice at a time and place fixed by the Trustees' Regulations. Notice of the time and place of any other meetings shall be mailed or otherwise given not less than 48 hours before the meeting but may be waived in writing by any Trustee either before or after such meeting. The attendance of a Trustee at a meeting shall constitute a waiver of notice of such meeting except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened. Each committee of Trustees appointed by the Trustees may adopt its own rules or procedures for the calling, conduct, adjournment and regulation of the meetings of such committees as it sees fit and may amend or repeal such rules or procedures from time to time; provided, however, that the Trustees' Regulations and any such rules or procedures shall not be inconsistent with this Declaration of Trust.

Section 7.03 Quorum.

A quorum for all meetings of the Trustees shall be at least a majority of the Trustees, so long as the majority of such majority are Resident Canadians, and a quorum for all meetings of any committee of the Trustees shall be at least a majority of the Trustees on such committee.

Section 7.04 Voting at Meetings.

Questions arising at any meeting of the Trustees shall be decided by a majority of the votes cast; provided, however, that the approval required with respect to:

(a) an acquisition of a property or an investment in a property, whether by co-investment or otherwise, or the provision of any financing, or development or leasing services in respect of a property, in which any Related Party of the Trust has any direct or indirect interest, whether as owner, operator or manager;

(b) a material change to any agreement with a Related Party of the Trust or any approval, consent, waiver or other decision of the Trustees thereunder, or any renewal, extension or termination thereof or any increase in any fees (including any transaction fees) or distributions payable thereunder;

(c) the entering into of, or the waiver, exercise or enforcement of any rights or remedies under, any agreement entered into by the Trust or any of its Subsidiaries, or the making, directly or indirectly, of any co-investment, in each case, with (i) any Trustee, (ii) any entity

directly or indirectly controlled by any Trustee in which any Trustee holds a significant interest, or (iii) any entity for which any Trustee acts as a director or in other similar capacity;

(d) the refinancing, increase or renewal of any indebtedness owed by or to (i) any Trustee, (ii) any entity directly or indirectly controlled by any Trustee or in which any Trustee holds a significant interest, or (iii) any entity for which any Trustee acts as a director or in other similar capacity; or

(e) decisions relating to any claims by or against one or more parties to any agreement with any Related Party to the Trust,

shall be only that of a majority of the Independent Trustees, provided, however, that the foregoing shall not apply with respect to any circumstance in respect of which the only parties to the relevant transaction or agreement are (i) the Trust and a wholly-owned Subsidiary or (ii) wholly-owned Subsidiaries of the Trust.

In the case of an equality of votes, the chair of the meeting, who shall be the Chair if present, shall not have a second or casting vote in addition to their original vote, if any.

Section 7.05 Meeting by Telephonic or Electronic Means.

A Trustee may, if all the Trustees consent, participate in a meeting of Trustees or of a committee of Trustees by means of a telephonic, electronic or other communications facility that permits all participants to communicate adequately with each other during the meeting. A Trustee participating in such a meeting by such means is deemed for the purposes of this Declaration of Trust to be present at that meeting.

**ARTICLE VIII
DELEGATION OF POWERS**

Section 8.01 General.

The Trustees may appoint from among their number a committee of Trustees and may delegate to such committee any of the powers of the Trustees. The Trustees shall have the power to appoint, employ or contract with any person for any matter relating to the Trust or its assets or affairs. The Trustees may grant or delegate such authority to a property manager as the Trustees may in their sole discretion deem necessary or desirable without regard to whether such authority is normally granted or delegated by trustees. Subject to Section 7.04, the Trustees shall have the power to determine the term and compensation of a property manager or any other person whom they may employ or with whom they may contract. In no event shall the Trustees delegate authority with respect to any matter set out in Section 7.04. The Trustees shall have the power to grant powers of attorney as required in connection with any financing or security relating thereto.

Section 8.02 Audit Committee.

The Trustees shall appoint an audit committee (the “**Audit Committee**”) to consist of not less than three Trustees, all of whom shall be Independent Trustees. The Audit Committee shall review the financial statements of the Trust and report thereon to the Trustees. The auditors of the Trust are entitled to receive notice of every meeting of the Audit Committee and, at the

expense of the Trust, to attend and be heard thereat and, if so requested by a member of the Audit Committee, shall attend any meeting of the Audit Committee held during the term of office of the auditors. Questions arising at any meeting of the Audit Committee shall be decided by a majority of the votes cast. Decisions may be taken by written consent signed by all of the members of the Audit Committee. The auditors of the Trust or a member of the Audit Committee may call a meeting of the Audit Committee on not less than 48 hours' notice.

Section 8.03 Compensation and Governance Committee.

The Trustees shall appoint a compensation and governance committee (the "**Compensation and Governance Committee**") to consist of not less than three Trustees, all of whom shall be Independent Trustees. The duties of the Compensation and Governance Committee will be to review management's compensation and the governance of the Trust. Questions arising in any meeting of the Compensation and Governance Committee shall be decided by a majority of the votes cast. Decisions may be taken by written consent signed by all of the members of the Compensation and Governance Committee. Any member of the Compensation and Governance Committee may call a meeting of the Compensation and Governance Committee upon not less than 48 hours' notice. Notwithstanding the appointment of the Compensation and Governance Committee, the Trustees may consider and approve any matter which the Compensation and Governance Committee has the authority to consider or approve.

Section 8.04 Property Manager.

The Trustees may exercise broad discretion in allowing any property manager to manage the real properties of the Trust, including operating, maintaining, leasing and marketing the said properties, to act as agent for the Trust in respect thereof and to execute documents on behalf of the Trustees in respect thereof, all subject to the overriding authority of the Trustees over the management and affairs generally of the Trust.

Section 8.05 Additional Committees and Powers That May Not Be Delegated.

The Trustees may create such additional committees as they, in their discretion, determine to be necessary or desirable for the purposes of properly governing the affairs of the Trust; provided that the Trustees may not delegate to any committee or any officer any power or authority in respect of: (i) submitting to Unitholders and Special Voting Unitholders any question or matter requiring the approval of Unitholders and Special Voting Unitholders; (ii) filling a vacancy among the Trustees or appointing additional trustees; (iii) issuing Units or Special Voting Units except as authorized by the Trustees; (iv) declaring distributions; (v) approving a proxy circular; (vi) approving a take-over bid circular; and (vii) approving the annual financial statements of the Trust.

ARTICLE IX DISTRIBUTIONS

Section 9.01 Distributions.

(a) The Trust may distribute to Unitholders on each Distribution Date such amounts ("**Distributions**") as shall be determined by the Trustees in their discretion for the calendar month ending on the Distribution Date or, if the Distribution Date does not coincide with

the last day of the calendar month, for the last calendar month ended immediately preceding the Distribution Date.

(b) On each Distribution Date specified herein, or which may be otherwise determined by the Trustees, any Distributions determined on any Distribution Date by the Trustees shall be payable to Unitholders *pro rata* in proportion to the number of Units held as of record by them on the record date for distribution in respect of each such Distribution.

(c) Notwithstanding the foregoing, the total amount due and payable pursuant to this Section 9.01 on or before the last day of any taxation year of the Trust for purposes of the Tax Act shall not be less than the amount necessary to ensure that the Trust will not be liable to pay income tax under Part I of the Tax Act for such year. The amount, if any, which is required to be distributed to comply with the preceding sentence shall be due and payable, on the earlier of the last Distribution Date in respect of each year and the last day of such taxation year, to persons who are Unitholders of record on that date (which date, for greater certainty, shall be deemed to be the record date for such distribution for purposes of this Declaration of Trust), such amount to be payable in cash unless the Trustees determine in their absolute discretion to pay such amount in Units in any particular year, in which case such amount shall be payable in Units for that year, provided that the distribution of Units shall be subject to the restrictions in Section 5.10 and Section 5.11.

(d) For greater certainty, it is hereby expressly declared that a Unitholder shall have the legal right to enforce payment of any amount which is determined by the Trustees to be payable, or otherwise required or deemed to be payable to a Unitholder in accordance with this Declaration of Trust.

(e) At any time the Trustees may declare an extraordinary distribution of cash, Units or property of the Trust *in specie* (an “**Extraordinary Distribution**”). Distributions shall be made in cash or Units pursuant to any distribution reinvestment plan or distribution reinvestment and Unit purchase plan adopted by the Trustees pursuant to Section 9.07, or, in the case of an Extraordinary Distribution, in cash, Units or property of the Trust *in specie*. Any distribution, including an Extraordinary Distribution, of Units shall be subject to the restrictions in Section 5.10 and Section 5.11. Any distribution, including any Extraordinary Distribution, shall be made *pro rata* in proportion to the number of Units held as of record by the Unitholders, on the record date for such distribution. Distributions, including Extraordinary Distributions, will be made to Unitholders of record on a date to be determined by the Trustees in accordance with Section 6.10 hereof. The Trustees, if they so determine when income has been accrued but not collected may, on a temporary basis, transfer sufficient monies from the capital to the income account of the Trust to permit distributions of income which are payable to be effected. Where the Trustees determine that the Trust does not have available cash in an amount sufficient to make payment of the full amount of any distribution which is payable hereunder on the due date for such payment, or where the Trustees otherwise determine in their absolute discretion that all or a portion of such distribution should not be paid in cash, the payment may, at the option of the Trustees, include the issuance of additional Units, or fractions of Units, if necessary, having a fair market value as determined by the Trustees equal to the difference between the amount of such distribution and the amount of cash which either has been determined by the Trustees in their absolute discretion to be available, or which the Trustees have otherwise determined shall be distributed in their absolute discretion as the case may be, for the payment of such distribution. Such additional Units will be issued based on the proportionate interest of each series and with respect to such

series, *pro rata* in proportion to the number of Units held as of record by each Unitholder on such date. Immediately after a *pro rata* distribution of such Units to all Unitholders in satisfaction of any non-cash distribution, the number of outstanding Units will be consolidated so that each Unitholder will hold, after the consolidation, the same number of Units as the Unitholder held before the non-cash distribution. Each certificate or DRS Advice representing a number of Units prior to the non-cash distribution is deemed to represent the same number of Units after the non-cash distribution and the consolidation.

(f) Notwithstanding the foregoing, where tax is required to be withheld from a Unitholder's share of the distribution and such tax is not otherwise paid by or on behalf of the Unitholder, the consolidation will result in such Unitholder holding that number of Units equal to (i) the number of Units held by such Unitholder prior to the distribution plus the number of Units received by such Unitholder in connection with the distribution (net of the number of whole and part Units withheld on account of withholding taxes) multiplied by; (ii) the fraction obtained by dividing the aggregate number of Units outstanding prior to the distribution by the aggregate number of Units that would be outstanding following the distribution and before the consolidation if no withholding were required in respect of any part of the distribution payable to any Unitholder. Such Unitholder will be required to surrender the certificates or DRS Advice, if any, representing such Unitholder's original Units, in exchange for a certificate or DRS Advice representing such Unitholders' post-consolidation Units.

Section 9.02 Allocation.

Income and net taxable capital gains for purposes of the Tax Act will be allocated to Unitholders on the record date for each distribution in the same proportions as distributions received by Unitholders on the record date for such distribution, subject to the discretion of the Trustees to adopt an allocation method which the Trustees consider to be more reasonable in the circumstances.

Section 9.03 Payment of Cash Distributions.

Cash distributions shall be made by cheque payable to or to the order of the Unitholder or by such other manner of payment approved by the Trustees from time to time. The payment, if made by cheque, shall be conclusively deemed to have been made upon hand-delivery of a cheque to the Unitholder or to their agent duly authorized in writing or upon the mailing of a cheque by prepaid first-class mail addressed to the Unitholder at their address as it appears on the Register unless the cheque is not paid on presentation. The Trustees may issue a replacement cheque if they are satisfied that the original cheque has not been received or has been lost or destroyed upon being furnished with such evidence of loss, indemnity or other document in connection therewith that they may in their discretion consider necessary.

Section 9.04 Withholding Taxes.

(a) The Trust may deduct or withhold from each distribution payable to any Unitholder all amounts which the Trust is required or permitted by law to deduct or withhold therefrom.

(b) In the case of any distribution of property of the Trust (or distribution in the form of an issuance of additional Units) (an "*in specie* distribution"), except as otherwise

determined by the Trustees in their sole discretion, the provisions of this Section 9.04(b) shall apply:

- (i) the transfer agent and registrar may require declarations as to the jurisdictions in which beneficial owners of Units are resident for relevant tax purposes;
- (ii) each Unitholder that does not appear on the register as having a Canadian address shall be regarded for purposes hereof as a Non-Resident unless such Unitholder provides the Trust with satisfactory evidence that such Unitholder is not a Non-Resident prior to the record date for the *in specie* distribution (the “**Record Date**”);
- (iii) prior to the Record Date, the Trust shall make a public announcement of the estimated amount of tax required to be withheld from the portion of the distribution that is payable to Non-Residents. Each Non-Resident Unitholder shall remit to the Trust an amount in Canadian currency equal to the amount of tax (the “**Withholding Tax**”) required to be withheld from the portion of the *in specie* distribution otherwise payable to such Unitholder, including without limitation any tax required to be so withheld pursuant to Part XIII or Part XIII.2 of the Tax Act, or any other provision of any applicable tax law; and
- (iv) the Trust shall have the right to recover from each Non-Resident Unitholder who does not comply with Section 9.04(b)(iii) the full amount of Withholding Tax attributable to the *in specie* distribution to such Unitholder. Without limiting the generality of the foregoing, the transfer agent and registrar may, upon receiving a direction and suitable indemnity from the Trustees, send a notice to such Unitholder requiring such Unitholder to, within a specified period of not less than 15 days, sell such Unitholder’s Units or a portion thereof and to remit sufficient proceeds of such sale to the Trust to enable the Trust to satisfy the Withholding Tax arising as a consequence of such *in specie* distribution. If the Unitholder receiving such notice has not sold the specified number of Units or provided the Trustees with satisfactory evidence that such Unitholder is not a Non-Resident within such period, the transfer agent and registrar, upon receiving a direction from the Trustees, may on behalf of such Unitholder, sell to a third party such number of the Units owned by such Unitholder as gives rise to net proceeds that are no less than the amount of Withholding Tax arising as a consequence of such *in specie* distribution.

Section 9.05 Income Tax Matters.

In reporting income for income tax purposes the Trust shall claim the maximum amount available to it as deductions under the relevant law, including but not limited to maximum capital cost allowance under the Tax Act, unless the Trustees determine otherwise.

Section 9.06 Designations.

The Trustees shall make such designations for income tax purposes in respect of amounts paid or payable to Unitholders for such amounts that the Trustees consider to be reasonable, including designations relating to taxable dividends received by the Trust in the year on shares of taxable Canadian corporations, net taxable capital gains of the Trust in the year and foreign source income of the Trust for the year.

Section 9.07 Distribution Reinvestment and Unit Purchase Plan.

The Trustees may in their sole discretion establish a distribution reinvestment plan or a distribution reinvestment and Unit purchase plan at any time.

**ARTICLE X
REDEMPTION OF TRUST UNITS**

Section 10.01 Right of Redemption.

Each Unitholder shall be entitled to require the Trust to redeem at any time or from time to time at the demand of the Unitholder all or any part of the Units registered in the name of the Unitholder at the prices determined and payable in accordance with the following conditions hereinafter provided.

Section 10.02 Exercise of Redemption Right.

(a) To exercise the right to require redemption under Section 10.01, a Unitholder must send a duly completed and properly executed notice (the “**Redemption Notice**”) requiring the Trust to redeem Units, in a form approved by the Trustees, to the Trust at the head office of the Trust. A Unitholder not otherwise holding a registered Unit certificate or DRS Advice that wishes to exercise the redemption right will be required to obtain a redemption notice form from the Unitholder’s investment dealer who will be required to deliver the completed redemption notice form to the Trust and to CDS. No form or manner of completion or execution shall be sufficient unless the same is in all respects satisfactory to the Trustees and is accompanied by any further evidence that the Trustees may reasonably require with respect to the identity, capacity or authority of the person giving such notice.

(b) Upon receipt by the Trust of a Redemption Notice, the Unitholder shall thereafter cease to have any rights with respect to the Units tendered for redemption (other than to receive the redemption payment therefor) including the right to receive any distributions thereon which are declared payable to the Unitholders of record on a date which is subsequent to the day of receipt by the Trust of such notice. Units shall be considered to be tendered for redemption on the date that the Trust has, to the satisfaction of the Trustees, received the Redemption Notice and other required documents or evidence as aforesaid. Subject to applicable laws, the Trust will redeem the Units specified in such Redemption Notice. Such redemption will be effective as of the date on which the Units are redeemed.

(c) All Units which are redeemed pursuant to this Article X shall be cancelled, shall no longer be outstanding and shall not be reissued.

(d) Units will be redeemed according to the order in which Redemption Notices are received.

Section 10.03 Cash Redemption.

(a) Subject to Section 10.04, upon receipt by the Trust of the notice to redeem Units in accordance with Section 10.01, the holder of the Units tendered for redemption shall be entitled to receive a price per Unit (the “**Redemption Price**”) equal to the amount that is the lesser of:

- (i) 90% of the “market price” of a Unit on the principal market on which the Units are listed or quoted for trading during the 10-trading day period commencing immediately prior to the Redemption Date; and
- (ii) 100% of the “closing market price” of a Unit on the Redemption Date on the principal market on which the Units are listed or quoted for trading.

For the purposes of this calculation, the “market price” of a Unit will be an amount equal to the weighted average of the trading prices of the Units for each of the trading days on which there was a trade of Units during the specified 10-trading day period; provided that if there was trading on the applicable exchange or market for fewer than five of the 10 trading days, the “market price” shall be the simple average of the following prices established for each of the 10 trading days: for each day on which there was no trading, the average of the last bid and ask prices; for each day that there was trading, the weighted average trading prices of the Units; and for purposes of the redemption of Series B Units, the “market price” shall be equal to the “market price” of the Series A Units as determined by the foregoing, multiplied by the Exchange Ratio then in effect.

The “closing market price” of a Unit for a particular date shall be an amount equal to: (i) the closing price of the Units if there was a trade on that date and the exchange or market provides a closing price; (ii) the average of the highest and lowest prices of Units if there was trading and the exchange or other market provides only the highest and lowest trading prices of Units traded on that date; and (iii) the average of the last bid and last ask prices of the Units if there was no trading on that date; and for purposes of the redemption of Series B Units, the “closing market price” shall be equal to the “closing market price” of the Series A Units as determined by the foregoing, multiplied by the Exchange Ratio then in effect.

If the Units are not listed or quoted for trading in a public market, the Redemption Price will be the fair market value of the Units, which will be determined by the Trustees in their sole discretion.

(b) Subject to Section 10.04, the Redemption Price payable in respect of the Units tendered for redemption during any month shall be paid by cheque, drawn on a Canadian chartered bank or a trust company in lawful money of Canada, payable at par to or to the order of the Unitholder who exercised the right of redemption on or before the last day of the calendar month following the month in which the Units were tendered for redemption. Payments made by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former Unitholder unless such cheque

is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder in respect of the Units so redeemed.

Section 10.04 No Cash Redemption in Certain Circumstances.

Section 10.03 shall not be applicable to Units tendered for redemption by a Unitholder, if:

(a) the total amount payable by the Trust pursuant to Section 10.03 in respect of such Units and all other Units tendered for redemption prior thereto in the same calendar month exceeds the Monthly Limit set forth below; provided that the Trustees may, in their sole discretion, waive such limitation in respect of all Units tendered for redemption in any calendar month;

(b) at the time the Units are tendered for redemption, the outstanding Series A Units are not listed for trading or quoted on any stock exchange or market which, in the sole discretion of the Trustees, provides representative fair market value prices for the Units; or

(c) the normal trading of the outstanding Units is suspended or halted on any stock exchange on which the Units are listed for trading or, if not so listed, on any market on which the Units are quoted for trading, on the Redemption Date for such Units or for more than five trading days during the 10-trading day period commencing immediately prior to the Redemption Date for such Units.

For the purpose of Section 10.04(a), the Monthly Limit will be equal to \$50,000 less the total of any Shortfall Payments, if any, payable by the Trust pursuant to Section 10.05(a) in respect of such Units and all other Units tendered for redemption prior thereto in the same calendar month (the “**Monthly Limit**”).

Section 10.05 In Specie Redemption.

(a) If, pursuant to Section 10.04, Section 10.03 is not applicable to all of the Units tendered for redemption by a Unitholder, the balance of the Redemption Price per Unit to which the Unitholder is entitled shall be the fair market value thereof as determined by the Trustees and, subject to any applicable regulatory approvals (which the Trust shall use reasonable commercial efforts to obtain), shall be paid out and satisfied by way of a distribution *in specie* to such Unitholder of property of the Trust and/or Redemption Notes, as determined by the Trustees in their sole discretion. Upon such payment, together with any cash paid to the Unitholder in accordance with Section 10.03(b), the Trust shall be discharged from all liability to such former Unitholder and any party having a security interest in respect of the Units so redeemed. In the event of distributions of Redemption Notes, each Redemption Note so distributed to the redeeming Unitholder shall be in the principal amount of \$100 or such other amount as may be determined by the Trustees in their sole discretion. No fractional Redemption Notes shall be distributed and where the number of Redemption Notes to be received upon redemption by a Unitholder would otherwise include a fraction, that number shall be rounded down to the next lowest whole number. Where an *in specie* distribution has been subject to rounding down as aforesaid, the shortfall between the Redemption Price per Unit and the aggregate principal amount of Redemption Notes distributed will be paid in cash (the “**Shortfall Payment**”) in the general manner set forth in Section 10.03(b). The Trustees may deduct or withhold from all payments or other distributions payable to any Unitholder pursuant to this Article X all amounts required by law to be so withheld

and any amount so deducted or withheld is considered to be paid or distributed to the Unitholder. Where the Trust makes a distribution *in specie* pursuant to this Section 10.05, the Trustees may, in their sole discretion, designate and treat as having been paid to the redeeming Unitholders any amount of the capital gains or income realized by the Trust on or in connection with the distribution to the Unitholder.

(b) The Redemption Price payable pursuant to this Section 10.05 in respect of Units tendered for redemption during any month shall be paid by the transfer, to or to the order of the Unitholder who exercised the right of redemption, on the last day (the “**Transfer Date**”) of the calendar month following the month in which the Units were tendered for redemption, of the number of Redemption Notes and other property determined as aforesaid. The Trust shall be entitled to all interest paid on the Redemption Notes and income paid on other property being transferred up to and including the Transfer Date. Payments by the Trust of the Redemption Price per Unit are conclusively deemed to have been made upon the mailing of the *in specie* distribution of securities and other property by registered mail in a postage prepaid envelope or equivalent or superior method of delivery addressed to the former Unitholder and/or any party having a security interest. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder and any party having a security interest in respect of the Units so redeemed. Where the Trust makes a distribution *in specie* of securities and other property of the Trust to a Unitholder on a redemption of Units pursuant to this Section 10.05 in a particular year, then (a) the Trustees shall not allocate any amount of taxable capital gain realized by the Trust to the redeeming Unitholder, except that the Trustees may, in their sole discretion, allocate such an amount that they determine (using reasonable efforts to obtain the information required to determine the Unitholder’s cost amount) is not greater than the taxable capital gain that would otherwise have been realized by the redeeming Unitholder on the redemption; and (b) no other amount of income (other than taxable capital gains) may be allocated to the redeeming Unitholder, except, in each case, to the extent the Trustees determine otherwise in their sole discretion on or before December 31 of that year.

ARTICLE XI FEES AND EXPENSES

Section 11.01 Expenses.

The Trust shall pay all expenses incurred in connection with the administration and management of the Trust and its investments, including without limitation:

- (a) interest and other costs of borrowed money;
- (b) fees and expenses of lawyers, accountants, auditors, appraisers and other agents or consultants employed by or on behalf of the Trust or the Trustees;
- (c) compensation, fees and expenses of the Trustees;
- (d) fees and expenses in connection with the acquisition, disposition, ownership, leasing, management and financing of the Trust’s property permitted by this Declaration of Trust;

(e) insurance, including Trustees' and officers' liability insurance, as considered necessary by the Trustees;

(f) expenses in connection with payments of distributions of Units of the Trust;

(g) expenses in connection with communications to Unitholders and Special Voting Unitholders and the other bookkeeping and clerical work necessary in maintaining relations with Unitholders and Special Voting Unitholders;

(h) expenses of amending this Declaration of Trust or terminating the Trust;

(i) fees and charges of transfer agents, registrars, indenture trustees and other trustees and custodians;

(j) all fees, expenses, taxes and other costs incurred in connection with the issuance, distribution, transfer and qualification for distribution to the public of Units and other required governmental or stock exchange filings; and

(k) all costs and expenses in connection with the incorporation or establishment, organization and maintenance of corporations and other entities formed to hold real property or other property of the Trust.

Section 11.02 Payment of Real Property and Brokerage Commissions.

The Trust may pay real property and brokerage commissions at commercial rates in respect of the acquisition and disposition of any investment acquired or disposed of by it. Such commissions may be paid to a property manager or to others.

Section 11.03 Property Management, Leasing and Financing Fees.

The Trust may pay property management fees, leasing fees and financing fees in respect of any real property owned by it. Such fees may be paid to a property manager or to others.

**ARTICLE XII
AMENDMENTS TO THE DECLARATION OF TRUST**

Section 12.01 Amendments by the Trustees.

The Trustees may make the following amendments to this Declaration of Trust in their sole discretion and without the approval of Unitholders and Special Voting Unitholders:

(a) amendments for the purpose of ensuring continuing compliance with applicable laws, regulations, requirements or policies of any governmental authority having jurisdiction over the Trustees or over the Trust, its status as a "mutual fund trust", "unit trust" or "real estate investment trust" under the Tax Act or the distribution of its Units;

(b) amendments which, in the opinion of the Trustees, provide additional protection for Unitholders or Special Voting Unitholders;

(c) amendments which, in the opinion of the Trustees are necessary or desirable to remove conflicts or inconsistencies in this Declaration of Trust or making corrections, including the rectification of any ambiguities, defective provisions, errors, mistakes or omissions, which are, in the opinion of the Trustees necessary or desirable and not prejudicial to the Unitholders or Special Voting Unitholders;

(d) amendments which, in the opinion of the Trustees, are necessary or desirable to remove conflicts or inconsistencies between the disclosure in the management information circular of H&R REIT describing the 2021 Plan of Arrangement and this Declaration of Trust;

(e) such amendments to this Declaration of Trust as the Trustees in their discretion deem necessary or desirable (i) as a result of changes in the taxation laws from time to time which may affect the Trust, the Unitholders, the Special Voting Unitholders or annuitants under a plan of which a Unitholder or Special Voting Unitholder acts as trustee or carrier, or to qualify for a particular status under taxation laws including to qualify as a “real estate investment trust” for purposes of the Tax Act or to otherwise prevent the Trust or any of its subsidiaries from becoming subject to SIFT Tax, or (ii) as a result of changes in accounting standards from time to time which may affect the Trust, the Unitholders, the Special Voting Unitholders or annuitants under a plan of which a Unitholder or Special Voting Unitholder acts as trustee or carrier;

(f) amendments which in the opinion of the Trustees are not prejudicial to Unitholders or Special Voting Unitholders and are necessary or desirable (which, for greater certainty, exclude amendments in respect of which a Unitholder and Special Voting Unitholder vote is specifically otherwise required); and

(g) amendments which, in the opinion of the Trustees are necessary or desirable to enable the Trust to implement a Unit option or purchase plan, a distribution reinvestment plan or to issue Units for which the purchase price is payable in instalments.

Section 12.02 Ratifying Amendments to Declaration of Trust.

(a) The Trustees shall submit any amendment to this Declaration of Trust that has not been approved by the Unitholders and Special Voting Unitholders pursuant to Section 12.01, other than amendments pursuant to Section 4.05, Section 12.01(a), Section 12.01(d) or Section 12.01(e) and amendments the Trustees determine are necessary or advisable pursuant to or in connection with applicable tax laws, securities laws, accounting standards or other applicable laws or regulations or such amendments, the equivalent of which, would not otherwise be required to be ratified by shareholders pursuant to the *Canada Business Corporations Act*, to the Unitholders and Special Voting Unitholders at the next meeting of Unitholders and Special Voting Unitholders and the Unitholders and Special Voting Unitholders entitled to vote on the amendment may, by a vote representing at least a majority of the Units and Special Voting Units voted, in person or by proxy, confirm, reject or amend the amendment to this Declaration of Trust.

(b) An amendment to this Declaration of Trust which the Trustees are expressly empowered to make pursuant to the terms hereof is effective from the date the amended Declaration of Trust is signed which reflects the amendment approved by the Trustees until, if required, it is confirmed, confirmed as amended or rejected by the Unitholders and Special Voting Unitholders under subsection (a) or until it ceases to be effective under subsection (c) and, where

the amendment is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

(c) If an amendment to this Declaration of Trust is rejected by the Unitholders and Special Voting Unitholders, or if the Trustees do not submit an amendment to the Unitholders and Special Voting Unitholders as required under subsection (a), the amendment ceases to be effective immediately after the meeting of Unitholders and Special Voting Unitholders referred to in subsection (a) and no subsequent resolution of the Trustees to amend this Declaration of Trust having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the Unitholders and Special Voting Unitholders. The Trustees shall sign an amended and restated Declaration of Trust which removes the rejected or unapproved amendment.

Section 12.03 Amendments by Unitholders and Special Voting Unitholders.

Subject to Section 2.05 and Section 12.05, this Declaration of Trust may be amended by the vote of a majority of the votes in the aggregate cast at a meeting of Unitholders and Special Voting Unitholders called for that purpose by Unitholders and Special Voting Unitholders entitled to vote thereon.

Section 12.04 Two-Thirds Unitholder and Special Voting Unitholder Vote.

Subject to Section 6.07(b), none of the following shall occur unless the same has been duly approved by the affirmative vote of at least two-thirds of the votes cast at a meeting of Unitholders and Special Voting Unitholders duly called and held by Unitholders (including, for greater certainty, holders of Series B Units) and Special Voting Unitholders (in aggregate) entitled to vote thereon:

- (a) any amendment to this Section 12.04;
- (b) any amendment to change a right with respect to any outstanding Units or Special Voting Units of the Trust, to reduce the amount payable on the Units upon termination of the Trust, or to diminish or eliminate any voting rights pertaining to the Units of Special Voting Units;
- (c) any amendment to the duration or termination provisions of the Trust;
- (d) any amendment relating to the powers, duties, obligations, liabilities or indemnification of the Trustees;
- (e) any sale, lease, transfer or exchange of all or substantially all of the property or assets of the Trust (other than in the ordinary course of business of the Trust or as a part of an internal reorganization of the assets of the Trust as approved by the Trustees); or
- (f) any amendment to Section 4.01, Section 4.02(a), Section 4.02(h), Section 4.02(i), or Section 4.02(l) except for any amendment contemplated by Section 4.05 or Section 12.01(g).

Section 12.05 No Termination.

No amendment to or amendment and restatement of this Declaration of Trust, whether pursuant to this Article XII or otherwise, shall be construed as a termination of the Trust and the settlement or establishment of a new trust.

**ARTICLE XIII
TERMINATION OF THE TRUST**

Section 13.01 Duration of the Trust.

Unless the Trust is sooner terminated as otherwise provided herein, the Trust shall continue in full force and effect so long as any property of the Trust is held by the Trustees, and the Trustees shall have all the powers and discretions, expressed and implied, conferred upon them by law or by this Declaration of Trust.

Section 13.02 Termination by Unitholders and Special Voting Unitholders.

The Trust may be terminated by the vote of at least two-thirds of the votes in the aggregate cast at a meeting of Unitholders and Special Voting Unitholders, called for that purpose by Unitholders (including, for greater certainty, holders of Series B Units) and Special Voting Unitholders entitled to vote thereon.

Section 13.03 Effect of Termination.

Upon the termination of the Trust, the liabilities of the Trust shall be discharged with due speed and the net assets of the Trust shall be liquidated and the proceeds distributed proportionately to the Unitholders. Such distribution may be made in cash or in kind or partly in each, all as the Trustees in their sole discretion may determine.

**ARTICLE XIV
LIABILITIES OF THE TRUSTEES AND OTHERS**

Section 14.01 Liability and Indemnification of the Trustees.

The Trustees shall at all times (including such time after they have ceased to be Trustees) be indemnified and saved harmless out of the property of the Trust from and against all liabilities, damages, losses, debts and claims whatsoever, including costs, charges and expenses in connection therewith, threatened, sustained, incurred, brought, commenced or prosecuted against them, and any appeal thereof, for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of their duties as Trustees and also from and against all other liabilities, damages, losses, debts, claims, costs, charges, fines, settlements and expenses (including, without limitation, legal fees and disbursements on a solicitor and client basis) which they sustain or incur in or about or in relation to the affairs of the Trust. Further, the Trustees shall not be liable to the Trust or to any Unitholder, Special Voting Unitholder or annuitant for any loss or damages relating to any matter regarding the Trust, including any loss or diminution in the value of the Trust or its assets. The Trust may advance moneys to a Trustee, officer or other individual for the costs, charges and expenses of a proceeding referred to above. The foregoing provisions of this Section 14.01 in favour of any Trustee do not apply unless:

(a) the Trustee acted honestly and in good faith with a view to the best interests of the Trust; and

(b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the Trustee had reasonable grounds for believing their conduct was lawful.

Section 14.02 Liability of the Trustees.

The Trustees shall not be liable to the Trust or to any Unitholder or Special Voting Unitholder, annuitant or any other person for the acts, omissions, receipts, neglects or defaults of any person, firm or corporation employed or engaged by it as permitted hereunder, or for joining in any receipt or act of conformity or for any loss, damage or expense caused to the Trust through the insufficiency or deficiency of any security in or upon which any of the monies of or belonging to the Trust shall be paid out or invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation with whom or which any monies, securities or property of the Trust shall be lodged or deposited, or for any loss occasioned by error in judgment or oversight on the part of the Trustees, or for any other loss, damage or misfortune which may happen in the execution by the Trustees of their duties hereunder, except to the extent the Trustees have not acted in accordance with Section 14.01(a) and Section 14.01(b).

Section 14.03 Reliance Upon Advice.

A Trustee may rely in good faith on, and shall not be responsible or held liable for any loss or damage resulting from so relying on, (i) any financial statements of the Trust represented to the Trustee by an officer of the Trust or in a written report of the auditor of the Trust fairly to reflect the financial condition of the Trust or (ii) a report of a person whose profession lends credibility to a statement made by the professional person.

Section 14.04 Liability of Unitholders, Special Voting Unitholders and Others.

(a) No Unitholder, Special Voting Unitholder or annuitant under a plan of which a Unitholder or Special Voting Unitholder acts as trustee or carrier shall be held to have any personal liability as such, and no resort shall be had to, nor shall recourse or satisfaction be sought from, the private property of any Unitholder or Special Voting Unitholder or annuitant for any liability whatsoever, in tort, contract or otherwise, to any person in connection with the Trust property or the affairs of the Trust, including, without limitation, for satisfaction of any obligation or claim arising out of or in connection with any contract or obligation of the Trust or of the Trustees or any obligation which a Unitholder, Special Voting Unitholder or annuitant would otherwise have to indemnify a Trustee for any personal liability incurred by the Trustee as such, but rather the assets of the Trust only are intended to be liable and subject to levy or execution for satisfaction of such liability. Each Unitholder, Special Voting Unitholder and annuitant under a plan of which a Unitholder or Special Voting Unitholder acts as trustee or carrier shall be entitled to be reimbursed out of the assets of the Trust in respect of any payment of a Trust obligation made by such Unitholder, Special Voting Unitholder or annuitant.

(b) The Trustees shall cause the operations of the Trust to be conducted, with the advice of counsel, in such a way and in such jurisdictions as to avoid, to the extent which they determine to be practicable and consistent with their fiduciary duty to act in the best interests of

the Unitholders and Special Voting Unitholders, any material risk of liability on the Unitholders or Special Voting Unitholders for claims against the Trust. Any potential liability of the Trustees with respect to their foregoing obligations or their failure to perform the same shall be governed by the provisions of Section 14.01, Section 14.02 and Section 14.03.

(c) To the extent that, notwithstanding the provisions of this Section, any Unitholder or Special Voting Unitholder, in its capacity as such, is determined by a judgment of a court of competent jurisdiction to be, or is otherwise held, personally liable in respect of any of the liabilities of the Trust or is required to indemnify the Trustees or any other person:

- (i) any such judgment, writ of execution or similar process in respect thereof will be enforceable only against, and will be satisfied only out of, the assets of the Trust; and
- (ii) in the event that, notwithstanding subsection (a), the judgment, writ of execution or similar process is enforceable against the Unitholder or Special Voting Unitholder, or the Unitholder or Special Voting Unitholder is otherwise held personally liable, the Unitholder or Special Voting Unitholder will be entitled to indemnity and reimbursement out of the assets of the Trust to the full extent of the liability and for all costs of any litigation or other proceedings in which such liability has been determined, including all fees and disbursements of counsel.

The rights accruing to a Unitholder or Special Voting Unitholder under this Section 14.04 and the limitations of a Unitholder's or Special Voting Unitholder's liability set out herein are in addition to, and do not exclude, any other rights or limitations of liability to which such Unitholder or Special Voting Unitholder may be lawfully entitled, pursuant to statute, regulation or otherwise, and nothing herein contained restricts the right of the Trustees to indemnify or reimburse a Unitholder or Special Voting Unitholder out of the assets of the Trust in any appropriate situation not specially provided herein but, for greater certainty, the Trustees have no liability to reimburse Unitholders or Special Voting Unitholders for taxes assessed against them by reason of or arising out of their ownership of Units or Special Voting Units.

ARTICLE XV UNITHOLDER REMEDIES

Section 15.01 Dissent and Appraisal Rights.

(a) Subject to Section 15.02(e), a Unitholder entitled to vote at a meeting of Unitholders and Special Voting Unitholders of the Trust who complies with this Section 15.01 may dissent:

- (i) if the Trust resolves to sell, lease, transfer or exchange all or substantially all the property and assets of the Trust;
- (ii) if the Trust resolves to carry out a going-private transaction; or
- (iii) if the Trust resolves to amend this Declaration of Trust to:

- (A) add, change or remove any provision restricting or constraining the issue, transfer or ownership of the Units;
- (B) add, change or remove any restriction on the business that the Trust may carry on;
- (C) add, change or remove the rights, privileges, restrictions or conditions attached to the Units of the class held by the dissenting Unitholder;
- (D) increase the rights or privileges of any class of units having rights or privileges equal or superior to the class of Units held by the dissenting Unitholder;
- (E) create a new class of units equal to or superior to the class of Units held by the dissenting Unitholder;
- (F) make any class of units having rights or privileges inferior to the class of Units held by the dissenting Unitholder superior to that class; or
- (G) effect an exchange or create a right of exchange in all or part of a class of Units into the class of Units held by the dissenting Unitholder.

(b) In addition to any other right the Unitholder may have, a Unitholder who complies with this Section is entitled, when the action approved by the resolution from which the Unitholder dissents becomes effective, to be paid by the Trust the fair value of the Units held by the Unitholder in respect of which the Unitholder dissents, determined as of the close of business on the day before the resolution was adopted.

(c) A dissenting Unitholder may only claim under this Section with respect to all the Units held by the dissenting Unitholder on behalf of any one beneficial owner and registered in the name of the dissenting Unitholder.

(d) A dissenting Unitholder shall send to the Trust, at or before any meeting of Unitholders and Special Voting Unitholders at which a resolution referred to in subsection (a) is to be voted on, a written objection to the resolution, unless the Trust did not give notice to the Unitholder of the purpose of the meeting and of the Unitholder's right to dissent.

(e) The Trust shall, within 10 days after the Unitholders adopt the resolution, send to each Unitholder who has filed the objection referred to in subsection (d) notice that the resolution has been adopted, but such notice is not required to be sent to any Unitholder who voted for the resolution or who has withdrawn its objection.

(f) A dissenting Unitholder shall, within 20 days after receiving a notice under subsection (e) or, if the Unitholder does not receive such notice, within 20 days after learning that the resolution has been adopted, send to the Trust a written notice containing:

- (i) the Unitholder's name and address;

- (ii) the number of, and class/series of, Units in respect of which the Unitholder dissents; and
- (iii) a demand for payment of the fair value of such Units.

(g) A dissenting Unitholder shall, within 30 days after the sending of a notice under subsection (f), send the certificates or DRS Advice representing the Units in respect of which the Unitholder dissents to the Trust or its transfer agent.

(h) A dissenting Unitholder who fails to comply with subsection (g) has no right to make a claim under this Section.

(i) The Trust or its transfer agent shall endorse on any certificate or DRS Advice received under subsection (g) a notice that the holder is a dissenting Unitholder under this Section 15.01 and shall return forthwith the certificates or DRS Advice to the dissenting Unitholder.

(j) On sending a notice under subsection (f), a dissenting Unitholder ceases to have any rights as a Unitholder other than the right to be paid the fair value of its Units as determined under this Section except where:

- (i) the Unitholder withdraws that notice before the Trust makes an offer under subsection (k);
- (ii) the Trust fails to make an offer in accordance with subsection (k) and the dissenting Unitholder withdraws the notice; or
- (iii) the Trustees revoke the resolution which gave rise to the dissent rights under this Section, and to the extent applicable, terminate the related agreements or abandon a sale, lease, transfer or exchange to which the resolution relates,

in which case the Unitholder's rights are reinstated as of the date the notice under subsection (f) was sent.

(k) The Trust shall, not later than 7 days after the later of the day on which the action approved by the resolution is effective or the day the Trust received the notice referred to in subsection (f), send to each dissenting Unitholder who has sent such notice a written offer to pay for the dissenting Unitholder's Units in an amount considered by the Trustees to be the fair value, accompanied by a statement showing how the fair value was determined.

(l) Every offer made under subsection (k) for Units of the same class or series shall be on the same terms.

(m) The Trust shall pay for the Units of a dissenting Unitholder within 10 days after an offer made under subsection (k) has been accepted, but any such offer lapses if the Trust does not receive an acceptance thereof within 30 days after the offer has been made.

(n) Where the Trust fails to make an offer under subsection (k), or if a dissenting Unitholder fails to accept an offer, the Trust may, within 50 days after the action

approved by the resolution is effective or within such further period as a court may allow, apply to a court to fix a fair value for the Units of any dissenting Unitholder.

(o) If the Trust fails to apply to a court under subsection (n), a dissenting Unitholder may apply to a court for the same purpose within a further period of 20 days or within such further period as a court may allow.

(p) The court where an application under subsection (n) or (o) may be made is a court having jurisdiction in the place where the Trust has its registered office.

(q) A dissenting Unitholder is not required to give security for costs in an application made under subsection (n) or (o).

(r) On an application under subsection (n) or (o):

(i) all dissenting Unitholders whose Units have not been purchased by the Trust shall be joined as parties and bound by the decision of the court; and

(ii) the Trust shall notify each affected dissenting Unitholder of the date, place and consequences of the application and of the dissenting Unitholder's right to appear and be heard in person or by counsel.

(s) On an application to a court under subsection (n) and (o), the court may determine whether any other person is a dissenting Unitholder who should be joined as a party, and the court shall fix a fair value for the Units of all dissenting Unitholders.

(t) A court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the Units of the dissenting Unitholders.

(u) The final order of a court in the proceedings commenced by an application under subsection (n) and (o) shall be rendered against the Trust in favour of each dissenting Unitholder and for the amount of the Units as fixed by the court.

(v) A court may in its discretion allow a reasonable rate of interest on the amount payable to each dissenting Unitholder from the date the action approved by the resolution is effective until the date of payment.

(w) If subsection (y) applies, the Trust shall, within ten days after the pronouncement of an order under subsection (u), notify each dissenting Unitholder that it is unable lawfully to pay dissenting Unitholders for their Units.

(x) If subsection (y) applies, a dissenting Unitholder, by written notice delivered to the Trust within thirty days after receiving a notice under subsection (w), may

(i) withdraw their notice of dissent, in which case the Trust is deemed to consent to the withdrawal and the Unitholder is reinstated to their full rights as a Unitholder; or

(ii) retain a status as a claimant against the Trust, to be paid as soon as the Trust is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the Trust but in priority to its Unitholders.

(y) The Trust shall not make a payment to a dissenting Unitholder under this Section if there are reasonable grounds for believing that:

(i) the Trust is or would after the payment be unable to pay its liabilities as they become due; or

(ii) the realizable value of the Trust's assets would thereby be less than the aggregate of its liabilities.

(z) The provisions of Section 9.04 shall apply mutatis mutandis to any payment to a Unitholder under this Section 15.01.

(aa) In the event that the Trust is required to dispose of property in order to fund a payment to a Unitholder under this Section 15.01, the Trustees in their sole discretion shall be entitled to treat all or any portion of (i) any capital gain realized by the Trust as a consequence of such disposition and (ii) the amount of accrued income in respect of such property (other than capital gains described in (i)) as an amount to be allocated to such Unitholder in the year of payment out of the net income of the Trust.

Section 15.02 Oppression Remedy.

(a) Any registered holder or beneficial owner of Units or former registered holder or beneficial owner of Units or any securityholder, Trustee or officer or any other person who in the discretion of the court is a proper person to make an application (each, a "**Complainant**") may apply to a court under the provisions of this Section 15.02.

(b) If, on application, the court is satisfied that, in respect of the Trust:

(i) any act or omission of the Trust effects a result;

(ii) the business or affairs of the Trust or any Subsidiary are or have been carried on or conducted in a manner; or

(iii) the powers of the Trustees are or have been exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any Unitholder, securityholder, creditor, Trustee or officer, the court may make an order to rectify the matters complained of by the Complainant.

(c) In connection with an application by a Complainant under Section 15.02(a) and without limiting subsection (b), a court may make any interim or final order it thinks fit including, without limiting the generality of the foregoing:

(i) an order restraining the conduct complained of;

(ii) an order appointing a receiver or receiver-manager;

- (iii) an order to regulate the Trust's affairs or those of a Subsidiary by amending this Declaration of Trust or the articles or by-laws of a Subsidiary;
- (iv) an order directing an issue or exchange of securities;
- (v) an order appointing Trustees or directors of a Subsidiary in place of or in addition to all or any of the Trustees or directors then in office;
- (vi) an order directing the Trust or any other person to purchase securities of a holder of securities;
- (vii) an order directing the Trust or any other person to pay a securityholder any part of the monies that the securityholder paid for securities;
- (viii) an order varying or setting aside a transaction or contract to which the Trust or a Subsidiary is a party and compensating the Trust or a Subsidiary or any other party to the transaction or contract;
- (ix) an order requiring the Trust or a Subsidiary, within a time specified by the court, to produce to the court or an interested person financial statements or an accounting in such form as the court may determine;
- (x) an order compensating an aggrieved person;
- (xi) an order directing rectification of the registers or other records of the Trust or a Subsidiary;
- (xii) an order directing an investigation to be made; and
- (xiii) an order requiring the trial of any issue;

provided that the court shall not make any order under this Section 15.02 that would, if such order were an action of the Trust, not be permitted under Section 4.01(b).

(d) If an order made under this Section directs an amendment of this Declaration of Trust or to the constating documents of a Subsidiary, then:

- (i) the Trustees shall request the Trust, such Subsidiary and all directors, Trustees, officers and other persons responsible for management to take all steps necessary to carry out that direction; and
- (ii) no other amendment to this Declaration of Trust or such constating documents shall be made without the consent of the court, until a court otherwise orders.

(e) A Unitholder is not entitled to dissent under this Declaration of Trust or other applicable law if an amendment to this Declaration of Trust or such constating documents is effected under this Section.

(f) A Complainant may apply in the alternative for an order to wind up the Trust or liquidate and dissolve a Subsidiary and a court may so order if the court is satisfied that it is just and equitable that such winding up, liquidation or dissolution occur.

ARTICLE XVI GENERAL

Section 16.01 Execution of Instruments.

The Trustees shall have power from time to time to appoint any Trustee or Trustees or any person or persons on behalf of the Trust either to sign instruments in writing generally or to sign specific instruments in writing. Provisions respecting the foregoing may be contained in the Trustees' Regulations.

Section 16.02 Manner of Giving Notice.

Any notice required or permitted by the provisions of this Declaration of Trust to be given to a Unitholder, Special Voting Unitholder, Trustee or the auditors of the Trust shall be deemed conclusively to have been given if given either by delivery or by prepaid first-class mail addressed to the Unitholder or Special Voting Unitholder at their address shown on the Register, to the Trustee at the last address provided by such Trustee to the Secretary of the Trust, or to the auditors of the Trust at the last address provided by such auditors to the Secretary of the Trust, as the case may be.

Section 16.03 Failure to Give Notice.

The failure by the Trustees, by accident or omission or otherwise unintentionally, to give any Unitholder, or Special Voting Unitholder, any Trustee or the auditors of the Trust any notice provided for herein shall not affect the validity, effect, taking effect or time of taking effect of any action referred to in such notice, and the Trustees shall not be liable to any Unitholder or Special Voting Unitholder for any such failure.

Section 16.04 Trust Auditors.

The auditors of the Trust shall be appointed at each annual meeting. If at any time a vacancy occurs in the position of auditors of the Trust, the Trustees may appoint a firm of chartered professional accountants qualified to practice in all provinces of Canada to act as the auditors of the Trust until the next annual meeting of Unitholders and Special Voting Unitholders. The auditors of the Trust shall report to the Trustees, the Unitholders and the Special Voting Unitholders on the annual financial statements of the Trust and shall fulfil such other responsibilities as they may properly be called upon by the Trustees to assume. The auditors shall have access to all records relating to the affairs of the Trust. The remuneration of auditors shall be fixed by the Trustees.

Section 16.05 Fiscal Year.

The fiscal year of the Trust shall terminate on December 31 in each year unless the Trust has made an election pursuant to subsection 132.11(1) of the Tax Act that its taxation year in respect of which the election is made, and each taxation year thereafter, shall end on December

15 of a calendar year rather than December 31, in which case the fiscal year shall correspond to the taxation year, and provided further that a fiscal year shall end on the termination of the Trust.

Section 16.06 Accounting Principles.

All accounting terms not specifically defined in this Declaration of Trust shall be interpreted in accordance with IFRS. Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made, for the purposes of this Declaration of Trust, such determination, consolidation or computation shall, unless the Trustees otherwise determine or the context otherwise requires, be made in accordance with IFRS, and all financial data prepared pursuant to this Declaration of Trust shall be prepared in accordance with such principles, consistently applied.

Section 16.07 Reports to Unitholders and Special Voting Unitholders.

Within such time period as is acceptable under National Instrument 51-102 – *Continuous Disclosure Obligations* of the Canadian Securities Administrators, as replaced or amended from time to time (including any successor rule or policy thereto), and at least 21 days prior to each annual meeting of Unitholders and Special Voting Unitholders, to the extent required by applicable law, the Trustees shall send to a Unitholder and/or Special Voting Unitholder audited comparative financial statements for such year, prepared in compliance with applicable securities laws. Within such time period as is acceptable under National Instrument 51-102 – *Continuous Disclosure Obligations* of the Canadian Securities Administrators, as replaced or amended from time to time (including any successor rule or policy thereto) after the end of each of the first three fiscal quarters of each year, to the extent required by applicable law, the Trustees shall send unaudited comparative financial statements for the period then ended to a Unitholder and/or Special Voting Unitholder. The Trustees will supply Unitholders and Special Voting Unitholders with any information that may be required by them in connection with their obligations under the Tax Act and equivalent provincial legislation.

Section 16.08 Trust Property to be Kept Separate.

The Trustees shall maintain the property of the Trust separate from all other property in their possession.

Section 16.09 Electronic Documents.

Any requirement under this Declaration of Trust, applicable securities laws or any other applicable law that a notice, statement, document or other information be created or provided is satisfied by the creation or provision of an electronic document to the extent permitted by law.

Section 16.10 Trustees May Hold Units and Special Voting Units.

Any Trustee or associate of a Trustee may be a Unitholder or Special Voting Unitholder, or may be an annuitant.

Section 16.11 Trust Records.

The Trustee shall prepare and maintain, at its principal office or at any other place in Canada designated by the Trustees, records containing (i) this Declaration of Trust; (ii) minutes of meetings and resolutions of Unitholders and Special Voting Unitholders; and (iii) the Register. The Trust shall also prepare and maintain adequate accounting records and records containing minutes of meetings and resolutions of the Trustees and any committee thereof. Such records shall be kept at the principal office of the Trust or at such other place as the Trustees think fit and shall at all reasonable times be open to inspection by the Trustees.

Section 16.12 Right to Inspect Documents and Records of the Trust.

(a) A Unitholder, Special Voting Unitholder and any agent, consultant or creditor of the Trust shall have the right to examine this Declaration of Trust, the Trustees' Regulations, the minutes of meetings and resolutions of Unitholders and Special Voting Unitholders, the Register and any other documents or records which the Trustees determine should be available for inspection by such persons, during normal business hours at the principal office of the Trust. Unitholders, Special Voting Unitholders and creditors of the Trust shall have the right to obtain or make or cause to be made a list of all or any of the registered holders of Units and Special Voting Units, to the same extent and upon the same conditions as those which apply to shareholders and creditors of a corporation governed by the *Canada Business Corporations Act*, as amended from time to time.

(b) Any person described in subsection (a) who wishes to examine the securities Register of the Trust must first make a request to the Trust or its agent or mandatary, accompanied by an affidavit referred to in Section 16.14. On receipt of the affidavit, the Trust or its agent or mandatary shall allow the applicant access to the securities Register during the normal business hours, and, on payment of a reasonable fee, provide the applicant with an extract from the securities Register.

Section 16.13 Information Available to Unitholders, Special Voting Unitholders and other Securityholders.

(a) Unitholders, Special Voting Unitholders, other securityholders of the Trust and creditors and their respective personal representatives, or any other person, on payment of a reasonable fee therefor and on sending the Trust or its agent or mandatary an affidavit referred to in Section 16.14 may on application require the Trust or its agent or mandatary to provide, where available, within 10 days after receipt of the affidavit a list (in this Section referred to as the "basic list") made up to a date not more than 10 days before the receipt of the affidavit setting out the names of the Unitholders, the Special Voting Unitholders, the number of Units and/or Special Voting Units held by each Unitholder and Special Voting Unitholder and the address of each Unitholder and Special Voting Unitholder as shown in the records of the Trust.

(b) A person requiring the Trust to provide a basic list may, by stating in the affidavit referred to in subsection (a) that they require supplemental lists, require the Trust or its agent or mandatary on payment of a reasonable fee to provide supplemental lists, where available, setting out any changes from the basic list in the names or addresses of the Unitholders and Special Voting Unitholders and the number of Units or Special Voting Units owned by each Unitholder

and Special Voting Unitholder for each business day following the date the basic list is made up to.

(c) The Trust or its agent or mandatary shall provide a supplemental list, where available, required under subsection (b):

- (i) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and
- (ii) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

(d) A person requiring the Trust to furnish a basic list or a supplemental list may also require the Trust to include in that list the name and address of any known holder of an option or right to acquire Units or Special Voting Units, where available.

Section 16.14 Affidavits.

An affidavit required under Section 16.12 or Section 16.13 shall state:

- (a) the name and address of the applicant;
- (b) the name and address for service of the body corporate, if the applicant is a body corporate; and
- (c) that the information contained in the securities Register obtained pursuant to Section 16.12 or the basic list and any supplemental lists obtained pursuant to Section 16.13, as the case may be, will not be used except as permitted under Section 16.15.

Section 16.15 Use of Information.

A list of Unitholders or information from the securities Register obtained under Section 16.12 or Section 16.13 shall not be used by any person except in connection with:

- (a) an effort to influence the voting of Unitholders or Special Voting Unitholders of the Trust;
- (b) an offer to acquire securities of the Trust; or
- (c) any other matter relating to the affairs of the Trust.

Section 16.16 Consolidations.

Any one or more Trustees or the Secretary may prepare consolidated copies of this Declaration of Trust as it may from time to time be amended or amended and restated and may certify the same to be a true consolidated copy of this Declaration of Trust, as amended or amended and restated.

Section 16.17 Counterparts.

This Declaration of Trust may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

Section 16.18 Severability.

The provisions of this Declaration of Trust are severable and if any provisions are in conflict with any applicable law, the conflicting provisions shall be deemed never to have constituted a part of this Declaration of Trust and shall not affect or impair any of the remaining provisions thereof.

Section 16.19 Headings for Reference Only.

The headings preceding the articles and sections hereof have been inserted for convenience and reference only and shall not be construed to affect the meaning, construction or effect of this Declaration of Trust.

Section 16.20 Governing Law.

This Declaration of Trust shall be interpreted and governed by and take effect exclusively in accordance with the laws of the Province of Ontario. Any and all disputes arising under this Declaration of Trust, whether as to interpretation, performance or otherwise, shall be subject to the exclusive jurisdiction of the courts of the Province of Ontario and each of the Trustees hereby irrevocably attorns, and each Unitholder and Special Voting Unitholder shall be deemed to hereby irrevocably attorn, to the exclusive jurisdiction of the courts of such province.

Section 16.21 Transition.

Notwithstanding any other provision hereof, the approval of a majority of the Independent Trustees shall not be required, and the provisions of Section 3.08 and Section 7.04 shall not be operative or effective with respect to the entering into of, any material contract or transaction or proposed material contract or transaction contemplated by the 2021 Plan of Arrangement or the 2021 Purchase Agreement.

[INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Trustee has caused these presents to be signed and sealed as of the date first above written.

WITNESS:

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) _____
Thomas J. Hofstedter