
SLATE RETAIL REIT

**SECOND AMENDED AND RESTATED
DECLARATION OF TRUST**

Dated as of April 15, 2014

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SLATE RETAIL REIT

SECOND AMENDED AND RESTATED DECLARATION OF TRUST

THIS SECOND AMENDED AND RESTATED DECLARATION OF TRUST made in Toronto, Ontario as of the 15th day of April, 2014.

WHEREAS the Trust was established pursuant to a Declaration of Trust dated the 18th day of January, 2012 (the “**Original Declaration of Trust**”);

AND WHEREAS the Trust was on that date settled with U.S.\$10.00 by Slate Properties Inc., which the initial trustee thereupon held in trust, in exchange for a unit of the Trust;

AND WHEREAS the original Declaration of Trust was amended and restated on March 29, 2012;

AND WHEREAS the Trustees wish to further amend and restate this declaration of trust by executing this second amended and restated declaration of trust;

AND WHEREAS on March 3, 2014, the unitholders of the Trust (the “**Unitholders**”) approved this second amended and restated declaration of trust;

AND WHEREAS the Trustees desire that the Trust shall qualify as a “mutual fund trust” pursuant to subsection 132(6) of the Tax Act;

AND WHEREAS for greater certainty, this second amended and restated 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 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;

NOW THEREFORE, the undersigned Trustees, being all of the Trustees, hereby confirm and declare that they agree with the Unitholders to hold in trust, as trustees, the initial contribution by Slate Properties Inc. and any and all other 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 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, as follows:

ARTICLE 1 THE TRUST AND DEFINITIONS

1.1 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. In this Declaration of Trust, except where the context otherwise requires, the following terms shall have the following meanings:

- (a) “**affiliate**” of a person means any person or company that would be deemed to be an affiliated entity of such person within the meaning of National Instrument 45-106 – *Prospectus and Registration Exemptions*, as replaced or amended from time to time;
- (b) “**Annuitant**” means the annuitant or beneficiary of a Plan or any other plan of which a Unitholder acts as trustee or carrier;
- (c) “**Applicable Number of Class U Units**” means the number of Class U Units issuable per Class A Unit or Class I Unit pursuant to Section 8.3 being 1.0078 Class U Units per Class A Unit and 1.0554 Class U Units per Class I Unit, subject to adjustment from time to time pursuant to Section 8.3(e);
- (d) “**associate**” when used to indicate a relationship with a person or company has the meaning ascribed thereto in the *Securities Act* (Ontario), as replaced or amended from time to time;
- (e) “**Audit Committee**” has the meaning given thereto in Section 11.1;
- (f) “**Auditors**” means the firm of chartered accountants appointed as the auditors of the Trust from time to time in accordance with the provisions hereof and, initially, means Deloitte & Touche LLP, Chartered Accountants;
- (g) “**Board**” means the board of trustees of the Trust;
- (h) “**Business Day**” means any day other than a Saturday, Sunday or statutory holiday in the Provinces of Ontario;
- (i) “**CDS**” means CDS Clearing and Depository Services Inc. and its successors;
- (j) “**CDS Participant**” means a broker, dealer, bank, other financial institution or other person who, directly or indirectly, from time to time, effects book-based transfers with CDS and pledges of securities deposited with CDS;
- (k) “**Chair**”, “**President**”, “**Vice-Chair**”, “**Chief Executive Officer**”, “**Chief Financial Officer**”, “**Chief Operating Officer**”, “**Treasurer**” and “**Secretary**” mean the person(s) holding the respective office from time to time if so elected, appointed, engaged or employed by the Trustees;
- (l) “**Class A Units**” means the units of beneficial interest in the Trust, designated as “Class A Units”;
- (m) “**Class I Units**” means the units of beneficial interest in the Trust, designated as “Class I Units”;
- (n) “**Class U Units**” means the units of beneficial interest in the Trust, designated as “Class U Units”;
- (o) “**Closing**” means the closing of the Combination Transaction as described in the Information Circular; and “**Closing Date**” means the date on which the Closing occurs;
- (p) “**Closing Market Price**” means, as at a specified date:

- (i) an amount equal to the weighted average trading price of a Unit on the principal exchange or market on which the Units are listed or quoted for trading on the specified date and the principal exchange or market provides information necessary to compute a weighted average trading price of the Units on the specified date;
 - (ii) an amount equal to the closing price of a Unit on the principal market or exchange on the specified date if there was a trade on the specified date and the principal exchange or market provides only a closing price of the Units on the specified date;
 - (iii) an amount equal to the simple average of the highest and lowest prices of the Units on the principal market or exchange, if there was trading on the specified date and the principal exchange or market provides only the highest and lowest trading prices of the Units on the specified date; or
 - (iv) the simple average of the last bid and last asking prices of the Units on the principal market or exchange, if there was no trading on the specified date;
- (q) “**Combination Transaction**” means the transaction described in the Information Circular pursuant to which the assets of the Trust, Slate U.S. Opportunity (No. 2) Realty Trust and U.S. Grocery-Anchored Retail (1A), (1B) and (1C) Limited Partnerships were combined and the Class U units of the Trust were listed on the Toronto Stock Exchange;
 - (r) “**Date of Conversion**” has the meaning set out in Section 8.3(b);
 - (s) “**Declaration of Trust**” means this second amended and restated declaration of Trust as amended, supplemented or amended and restated from time to time;
 - (t) “**Distribution Date**” means, any date on which the Trustees have determined that a distribution will be made by the Trust to the Unitholders;
 - (u) “**Exchangeable Securities**” means Class A Units, Class I Units, Class B limited partnership units of Slate Retail One L.P., Class B limited partnership units of Slate Retail Two L.P., exchangeable limited partnership units of U.S. Grocery-Anchored Retail (1B) Limited Partnership and any other securities of a subsidiary of the Trust that are convertible, exchangeable or redeemable for Units;
 - (v) “**Fiscal Year**” means each fiscal year of the Trust;
 - (w) “**Gross Book Value**” means, at any time, the greater of (i) the value of the assets of the Trust and its subsidiaries, as shown on its then most recent consolidated statement of financial position, less the amount of any receivable reflecting interest rate subsidies on any debt assumed by the Trust and (ii) the historical cost of the assets of the Trust and its subsidiaries, where the historical cost of the Properties owned by the Trust and its subsidiaries on Closing will be U.S.\$435 million;
 - (x) “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**”, “**this Declaration of Trust**”, “**this Declaration**” 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, does not refer to any particular article, section or other portion hereof or thereof;

- (y) “**IFRS**” means International Financial Reporting Standards, issued by the International Accounting Standards Committee, and as adopted by the Canadian Institute of Chartered Accountants, as amended from time to time;
- (z) “**including**” means “including, without limitation”;
- (aa) “**indebtedness**” means (without duplication) on a consolidated basis:
 - (i) any obligation of a person for borrowed money (including, for greater certainty, the full principal amount of convertible indebtedness, notwithstanding its presentation under IFRS);
 - (ii) any obligation of a person incurred in connection with the acquisition of property, assets or business other than the amount of future income tax liability arising out of indirect acquisitions;
 - (iii) any obligation of a person issued or assumed as the deferred purchase price of property;
 - (iv) any capital lease obligation of a person; and
 - (v) any obligation of the type referred to in clauses (i) through (iv) of another person, the payment of which such person has guaranteed or for which such person is responsible for or liable,

provided that (A) an obligation will constitute indebtedness only to the extent that it would appear as a liability on the consolidated statement of financial position of the Trust in accordance with IFRS; (B) obligations referred to in clauses (i) through (iii) exclude accounts payable, distributions payable to Unitholders, accrued liabilities arising in the ordinary course of business which are not overdue or which are being contested in good faith, deferred revenues, intangible liabilities, deferred income taxes, tenant deposits and indebtedness with respect to the unpaid balance of installment receipts where such indebtedness has a term not in excess of 12 months; (C) Units or Exchangeable Securities shall not constitute indebtedness notwithstanding the classification of such securities as debt under IFRS; and (D) convertible debentures will constitute indebtedness to the extent of the principal amount thereof outstanding;

- (bb) “**Information Circular**” means the joint management information circular of the Trust and Slate U.S. Opportunity (No. 2) Realty Trust dated February 3, 2014;
- (cc) “**Manager**” means Slate Properties Inc., an Ontario corporation and includes any successors or assigns;
- (dd) “**Management Agreement**” means the agreement dated April 15, 2014 between the Trust and the Manager pursuant to which the Manager will provide certain management services to the Trust and its subsidiaries, as amended or amended and restated from time to time;
- (ee) “**Market Price**” means, as at a specified date:
 - (i) an amount equal to the weighted average trading price of a Unit on the principal exchange or market on which the Units are listed or quoted for trading during the period of 10 consecutive trading days ending on such date;

- (ii) an amount equal to the weighted average of the closing market prices of a Unit on the principal exchange or market on which the Units are listed or quoted for trading during the period of 10 consecutive trading days ending on such date, if the applicable exchange or market does not provide information necessary to compute a weighted average trading price; or
 - (iii) if there was trading on the applicable exchange or market for fewer than five of the 10 trading days, an amount equal to the simple average of the following prices established for each of the 10 consecutive trading days ending on such date: the simple average of the last bid and last asking price of the Units for each day on which there was no trading; the closing price of the Units for each day that there was trading if the exchange or market provides a closing price; and the simple average of the highest and lowest prices of the Units for each day that there was trading, if the market provides only the highest and lowest prices of Units traded on a particular day;
- (ff) “**NCI**” means the non-certificated inventory system of CDS;
 - (gg) “**Net Realized Capital Gains**” means, for any taxation year of the Trust, the amount, if any, by which the aggregate of the capital gains of the Trust realized in such year and each amount determined by the Board in respect of any net capital loss for a prior taxation year that the Trust is permitted by the Tax Act to deduct in computing the taxable income of the Trust for such year multiplied by the reciprocal of the fraction applicable in determining the proportion of a capital gain for such prior taxation year that is a taxable capital gain;
 - (hh) “**Non-Resident**” means a person who is not a Resident and a partnership that is not a Canadian partnership within the meaning of the Tax Act;
 - (ii) “**Original Declaration of Trust**” has the meaning given thereto in the Recitals;
 - (jj) “**OSC**” means the Ontario Securities Commission, and any successors thereto;
 - (kk) “**person**” means and includes any individual, general partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, joint stock company, association, trust, trust company, bank, pension fund, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or other organization or entity, whether or not a legal entity, however designated or constituted;
 - (ll) “**Plans**” means, collectively, trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans, deferred profit sharing plans, registered disability savings plans and tax-free saving accounts, each as described in the Tax Act;
 - (mm) “**Properties**” means the lands and premises or interests therein to be purchased, owned and leased, directly or indirectly, by the Trust;
 - (nn) “**Proportionate Class A Interest**” is equal to 1.0078 times the distribution on a Class U Unit as adjusted from time to time in accordance with Section 8.3(e);
 - (oo) “**Proportionate Class I Interest**” is equal to 1.0554 times the distribution on a Class U Unit as adjusted from time to time in accordance with Section 8.3(e);

- (pp) “**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, joint venture or otherwise), any interests in any of the foregoing and securities of trusts, corporations or partnerships the sole or principal purpose and activity of which is to invest in, hold and deal in real property;
- (qq) “**Redemption Date**” has the meaning given thereto in Section 13.3;
- (rr) “**Redemption Notice**” has the meaning given thereto in Section 13.2;
- (ss) “**Redemption Price**” has the meaning given thereto in Section 13.4;
- (tt) “**Redemption Value**” means, in respect of a redemption of Units:
- (i) where the Class U Units are listed on a stock exchange or similar market, an amount equal to the lesser of (i) 95% of the Market Price of the Class U Units on the Redemption Date; and (ii) 100% of the Closing Market Price of the Class U Units on the Redemption Date; or
 - (ii) where the Class U Units are not listed on a stock exchange or similar market, the Redemption Value will be the fair market value of the Class U Units, which will be determined by the Trustees in their sole discretion;
- (uu) “**Register**” has the meaning given thereto in Section 8.18;
- (vv) “**Resident**” means a person who is, or is deemed to be, resident in Canada for purposes of the Tax Act;
- (ww) “**Retiring Trustee**” has the meaning given thereto in Section 3.7;
- (xx) “**SIFT Trust**” has the meaning given thereto in the Tax Act;
- (yy) “**Special Resolution**” has the meaning given thereto in Section 9.17;
- (zz) “**Special Voting Units**” means the special voting units of the Trust;
- (aaa) “**Special Voting Unitholders**” means at any time the holders at the time of one or more Special Voting Units, as shown on the register of such holders maintained by the Transfer Agent on behalf of the Trust;
- (bbb) “**subsidiary**” and “**subsidiaries**” has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus and Registration Exemptions*, as replaced or amended from time to time;
- (ccc) “**Take Over Bid**” has the meaning given thereto in the *Securities Act* (Ontario) as replaced or amended from time to time;
- (ddd) “**Tax Act**” means the *Income Tax Act* (Canada) and the regulations thereunder, as replaced or amended from time to time;
- (eee) “**Taxation Year**” means the taxation year of the Trust for the purposes of the Tax Act;

- (fff) “**Transfer Agent**” means any such company as may from time to time be appointed by the Trust to act as registrar and transfer agent of the Units, together with any sub-transfer agent duly appointed by the Transfer Agent;
- (ggg) “**Trust**” means Slate Retail REIT, 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) “**Trust Income**” means the amount by which the income of the Trust for such year computed in accordance with the provisions of the Tax Act, other than paragraph 82(1)(b) and subsection 104(6) thereof, and taking into account such other amounts and adjustments as are determined in the discretion of the Board regarding the calculation of income for the purposes of determining the “taxable income” of the Trust, exceeds each amount determined by the Board in respect of any non-capital loss for a prior taxation year that the Trust is permitted by the Tax Act to deduct in computing the taxable income of the Trust for such year; provided, however, that capital gains and capital losses will be excluded from the computation of Trust Income and, if an amount has been designated by the Trust under subsection 104(19) or subsection 104(22) of the Tax Act, such designation shall be disregarded;
- (iii) “**Trust Property**” means the properties and assets held from time to time by the Trust or by the Board on behalf of the Trust, including:
- (i) the initial contribution by Slate Properties Inc.;
 - (ii) all funds or property derived from the issuance or sale of Units or other funds or property received by the Trust;
 - (iii) any assets owned by the Trust or securities of any person held from time to time by or on behalf of the Trust;
 - (iv) any proceeds of disposition of any of the foregoing property or in respect of the investment or substitution of the properties and assets of the Trust; and
 - (v) all proceeds, income, dividends, interest, profit, return of capital, gains and accretions and all substituted assets, rights and benefits of any kind or nature whatsoever arising directly or indirectly from or in connection with or accruing to such foregoing property or such proceeds of disposition;
- (jjj) “**Trustees**” means the trustee or trustees of the Trust holding office under and in accordance with this Declaration of Trust from time to time and “**Trustee**” means any one of them;
- (kkk) “**Trustees’ Regulations**” means the regulations adopted by the Trustees pursuant to Section 4.3;
- (lll) “**Units**” means the Class A Units, the Class I Units and the Class U Units, collectively;
- (mmm) “**Unit Certificate**” means a certificate, in the form stipulated by Article 8, evidencing one or more Units, issued and certified in accordance with the provisions hereof; and
- (nnn) “**Unitholder**” means a holder of one or more Units, or a fraction thereof.

1.2 Tax Act

Any reference herein to a particular provision of the Tax Act shall include a reference to that provision as it may be replaced, renumbered or amended from time to time. Where there are proposals for amendments to the Tax Act that have not been enacted into law or proclaimed into force on or before the date on which such proposals are to become effective, the Trustees may take such proposals into consideration and apply the provisions hereof as if such proposals had been enacted into law and proclaimed into force.

1.3 Day Not a Business Day

Except as expressly specified in this Declaration of Trust, in the event that any day on which any amount is to be determined or any action is required to be taken hereunder is not a Business Day, then such amount shall be determined or such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day.

1.4 Time of Essence

Time shall be of essence in this Declaration of Trust.

ARTICLE 2 DECLARATION OF TRUST

2.1 Establishment of the Trust

The Trustees hereby agree to hold and administer the property, real, personal or otherwise, tangible or intangible, which has been or is hereafter transferred, conveyed or paid to or otherwise received by the Trust or to which the Trust is otherwise entitled, including the initial contribution by Slate Properties Inc., and all rents, income, profits and gains therefrom in trust for the use and benefit of the Unitholders, their successors, permitted assigns and personal representatives upon the trusts and subject to the terms and conditions hereinafter declared and set forth, such trust to constitute the Trust hereunder.

2.2 Initial Contribution

The Trustees hereby acknowledge and confirm that Slate Properties Inc. made an initial contribution of U.S.\$10.00 to the initial Trustee for the purpose of establishing the Trust.

2.3 Name

The name of the Trust is Slate Retail REIT. 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. 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.

2.4 Use of Name

Should the Trustees determine that the use of the name Slate Retail REIT 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.

2.5 Office

The principal, registered and head office and centre of administration of the Trust shall be located at 200 Front Street West, Suite 2400, Toronto, Ontario, M5V 3K2 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.

2.6 Nature of the Trust

The Trust is an open-ended unincorporated investment trust. The Trust, its Trustees and its property 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 trusts or for the Trust by:

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

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 or the Unitholders or any of them or any officers or other employees of the Trust or any one 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. Neither the Trustees nor any officer or other employee of the Trust shall be, or be deemed to be, agents of the Unitholders. The relationship of the Unitholders to the Trustees, to the Trust and to the Trust Property shall be solely that of beneficiaries of the Trust and their rights shall be limited to those conferred upon them by this Declaration of Trust. In filing a return of income for the Trust with respect to its first taxation year under the Tax Act, the Trust shall elect, assuming that the requirements for such election are met, that the Trust shall be deemed a “mutual fund trust” for purposes of the Tax Act throughout such year.

2.7 Rights of Unitholders

The rights of each Unitholder to call for a distribution or division of assets, monies, funds, income and capital gains held, received or realized by the Trustees are limited to those contained herein and, except as provided herein, no Unitholder shall be entitled to call for any partition or division of the Trust Property or for a distribution of any particular asset forming part of the Trust Property or of any particular monies or funds received by the Trustees. The legal ownership of the Trust Property and the right to conduct the activities of the Trust are vested exclusively in the Trustees, and no Unitholder has or is deemed to have any right of ownership in any of the Trust Property, except as specifically provided herein. Except as specifically provided herein, no Unitholder shall be entitled to interfere with or give any direction to the Trustees with respect to the affairs of the Trust or in connection with the exercise of any powers or authorities conferred upon the Trustees under this Declaration of Trust. The 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.

ARTICLE 3 TRUSTEES AND OFFICERS

3.1 Number

There shall be a minimum of one and a maximum of nine Trustees. The number of Trustees within such minimum and maximum numbers may be changed by the Unitholders or by the Trustees from time to time at their discretion.

3.2 Term

Subject to Subsection 3.7, the Trustees elected at an annual meeting will be elected for a term expiring at the close of the next annual meeting and will be eligible for re-election. Trustees appointed by the Trustees between meetings of Unitholders in accordance with Subsection 3.8 shall be appointed for a term expiring at the conclusion of the next annual meeting and will be eligible for election or re-election, as the case may be.

3.3 Qualifications of Trustees

A Trustee shall be an individual that is at least 18 years of age, not under any legal disability and not found to be of unsound mind or incapable of managing property by a court in Canada or elsewhere, and not have the status of bankrupt.

3.4 Residency of Trustees

A majority of the Trustees must be Residents. If at any time a majority of the Trustees or a majority of the Trustees of any committee of the Trustees are not Residents because of the death, resignation, insolvency, bankruptcy, adjudicated incompetence or incapacity, removal or change in circumstance of any Trustee who was a Resident Trustee, or there are no Trustees who are Residents, the Trustee or Trustees who are Non-Residents shall, immediately before that time, be deemed to have resigned and shall cease to be Trustees with effect from the time of such deemed resignation and the remaining Trustees shall appoint a sufficient number of Resident Trustees to comply with this requirement. If at any time the number of Trustees is less than the number required under this Declaration of Trust and the remaining Trustee or Trustees fail or are unable to act in accordance with Section 3.8 to appoint one or more additional Trustees or if, upon the resignation or deemed resignation of one or more Trustees there would be no Trustees, then the Board of the Trust shall appoint one or more Trustees so that following such appointment a majority of the Trustees are Residents and, failing such appointment, any remaining Trustee or Unitholder or officer of the Trust or the Auditors, as the case may be, may apply to the Superior Court of Justice of Ontario for an order appointing one or more Trustees so that following such appointment a majority of the Trustees are Residents, to act on such other terms as the Court may order. Any Trustee who is a Resident who proposes to become a Non-Resident shall notify the other Trustees thereof as soon as reasonably practicable and, if a majority of the Trustees would not be Residents if such Trustee became a Non-Resident, such Trustee shall resign as a Trustee effective upon the day of such notification and shall be replaced with a Trustee who is a Resident.

3.5 Election of Trustees

Subject to Sections 3.1, 3.2, 3.4, 3.8 and 3.11 or as otherwise specified herein, the election of the Trustees shall be by the vote of Unitholders. The appointment or election of any Trustee (other than an individual who is serving as a Trustee immediately prior to such appointment or election) shall not become effective unless and until such person shall have in writing accepted such appointment or election and agreed to be bound by the terms of this Declaration of Trust.

3.6 Independent Trustees

A majority of the Trustees must qualify as “independent” within the meaning of National Instrument 58-201 – *Corporate Governance Guidelines* provided, however, that if at any time a majority of the Trustees are not independent 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 Trustees who qualify as “independent” to comply with this requirement.

3.7 Resignations, Removal, Incapacity and Death of Trustees

- (a) A Trustee may resign at any time by an instrument in writing signed by the Trustee and delivered or mailed to the Board or the President or, if there is no President, the Chief Executive Officer, or, if there is no Chief Executive Officer, the Unitholders. A resignation of a Trustee becomes effective at the time a written resignation is received by the Trust upon 30 days’ written notice, or at the time specified in the resignation, whichever is later, 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 is not effective until the resigning Trustee’s successor is duly appointed as a Trustee, except in the case of a deemed resignation under Section 3.4 which shall be effective at the time therein prescribed.
- (b) A Trustee may be removed at any time with or without cause by a majority of the votes cast at a meeting of Unitholders called for that purpose or by the written consent of the Unitholders holding in the aggregate not less than a majority of the outstanding 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. Any removal of a Trustee shall take effect immediately following the aforesaid vote or resolution or at any later time specified in the notice without need for prior accounting, 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, following such removal.
- (c) Upon the resignation or removal of any Trustee, or such Trustee otherwise ceasing to be a Trustee (in each case, a “**Retiring Trustee**”), such Retiring Trustee shall cease to have the rights, privileges and powers of a Trustee hereunder, shall account to the remaining Trustees as they may require for all property which he or she holds as Trustee and do all such other things as may be required pursuant to Subsection 3.10(b) hereof; 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 18.
- (d) Upon the incapacity or death of any Trustee, such Retiring 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 3.7. In the event that a Trustee or his 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.

3.8 Appointment of Trustees

The term of office applicable to each current Trustee shall expire at the close of the first annual meeting of Unitholders. Except as otherwise provided herein, Trustees shall be elected (including the re-election of incumbent Trustees) at each annual meeting of Unitholders, and may be elected at a special meeting of Unitholders. Prior to the annual Unitholder meeting of the Trust to be held in 2015, the Board may appoint up to two additional independent Trustees to serve for a term that shall expire at the close of the annual Unitholder meeting to be held in 2015. Trustees removed pursuant to Section 3.7(b) shall be replaced by a Trustee elected by a majority of the votes cast at a meeting of Unitholders called for that purpose or by the written consent of the Unitholders holding in the aggregate not less than a majority of the outstanding Units entitled to vote thereon. In the event that a Trustee resigns or otherwise ceases to be a Trustee other than pursuant to Section 3.7(b), the Trustees, so long as they constitute a quorum and a majority of the Trustees constituting quorum are Residents, may appoint one or more additional Trustees to fill such vacancy or vacancies for a term expiring at the close of the next annual meeting and will be eligible for election or re-election. In the event that an independent Trustee ceases to be a Trustee, such vacancy shall be filled by a person that would qualify as an independent Trustee. The Trustees may, between annual meetings of the Unitholders, appoint one or more additional Trustees to serve until the next annual meeting of Unitholders; provided that the number of additional Trustees so appointed will not at any time exceed one-third of the number of Trustees who held such office at the conclusion of the immediately preceding annual meeting of Unitholders (rounding to the nearest whole number).

3.9 Consent to Act

- (a) A person who is appointed a Trustee hereunder shall not become a Trustee until the person has, either before or after such appointment, executed and delivered to the Trust a consent, or such consent is evidenced in minutes of a meeting of Trustees, substantially in the form as follows:

“To: Slate Retail REIT (the “Trust”)
And to: The Trustees thereof

The undersigned hereby certifies that he or she or it is/is not a resident of Canada within the meaning of the *Income Tax Act* (Canada) and consents to act as a Trustee of the Trust and hereby agrees, upon the later of the date of this consent and the date of the undersigned’s appointment as a Trustee of the Trust, to thereby become a party, as a Trustee, to the Declaration of Trust dated the 18th day of January, 2012, as amended, supplemented or amended and restated from time to time, constituting the Trust.

Dated: _____
 [Signature]

- (b) Upon the later of a person being appointed a Trustee hereunder and executing and delivering to the Trust a form of consent substantially as set forth in Subsection 3.9(a), such person shall become a Trustee hereunder and shall be deemed to be a party (as a Trustee) to this Declaration of Trust, as amended, supplemented or amended and restated from time to time.
- (c) An act of a Trustee is valid notwithstanding an irregularity in the appointment or election of the Trustee or a defect in the qualification of the Trustee.

3.10 Ceasing to Hold Office

- (a) A Trustee ceases to hold office when:
- (i) the Trustee ceases to be duly qualified to act as a Trustee as provided under Section 3.2;
 - (ii) the Trustee ceases to be a Trustee in accordance with Section 3.6;
 - (iii) the Trustee dies or resigns; or
 - (iv) the Trustee is removed in accordance with Section 3.6.
- (b) Upon a Trustee ceasing to hold office as such hereunder, such Trustee shall cease to be a party (as a Trustee) to this Declaration of Trust; provided, however, that such Trustee shall continue to be entitled to be paid any amounts owing by the Trust to the Trustee and to the benefits of the indemnity provided in Section 18.2. Such Trustee shall execute and deliver such documents as the remaining Trustees shall reasonably require for the conveyance of any Trust property held in that Trustee's name, shall account to the remaining Trustees as they may reasonably require for all property which that Trustee holds as Trustee, shall resign from all directorship or similar positions held by such Trustee in any entity in which the Trust has an interest and shall thereupon be discharged as Trustee. Upon the incapacity or death of any Trustee, his legal representative shall execute and deliver on his behalf such documents as the remaining Trustees may reasonably require as provided in this Subsection 3.10(b). In the event that a Trustee or his 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 purposes 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 future which results in the termination of this power of attorney.

3.11 Vacancies by Trustees

The death, resignation, bankruptcy, adjudicated incompetence or other incapacity to exercise the duties of the office of a Trustee or the removal or other cessation to hold office of a Trustee shall not 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 Unitholders, in the case of a vacancy pursuant to Section 3.7(b), or, so long as they constitute a quorum and a majority of the Trustees constituting such quorum are Residents, a majority of the Trustees continuing in office, in the case of a vacancy other than pursuant to Section 3.7(b), may fill such vacancy. If there is not such a quorum of Trustees, the Trustees then in office shall promptly call a special meeting of Unitholders to fill the vacancy and, if they fail to call a meeting or if there are no Trustees then in office, the meeting may be called by any Unitholder. A Trustee appointed to fill a vacancy holds office, subject to Section 3.7 and Section 3.10, until the close of the next annual meeting of Unitholders, unless such Trustee is elected at the next annual meeting.

3.12 Successor and Additional Trustees

The right, title and interest of the Trustees in and to the property and assets of the Trust shall vest automatically in all persons who may hereafter become Trustees upon their due election or appointment and qualification and acceptance thereof 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 3.10 or otherwise.

3.13 Compensation and Other Remuneration

Only Trustees who are not officers or employees of and who do not receive salary from the Trust, the Manager or any of their subsidiaries shall receive such fees and other reasonable compensation (including, without limitation, fees for serving as Chair of the Trust, for serving as chair of any committee of Trustees and for attendance at each meeting of Trustees and of each committee of Trustees) as the Trustees may determine from time to time, as well as reimbursement of their reasonable travel and out-of-pocket expenses properly incurred in acting as a Trustee.

Each of the 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.

3.14 Validity of Acts

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

ARTICLE 4 TRUSTEES' POWERS AND DUTIES

4.1 General Powers

The Trustees, subject only to the terms and conditions contained in this Declaration of Trust, including without limitation, Sections 7.1, 7.2 and 9.8, shall have, without further or other authorization and free from any control or direction on the part of the Unitholders, full, absolute and exclusive power, control and authority over the assets of the Trust and over the operations of the Trust to the same extent as if the Trustees were the sole and absolute legal and beneficial 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, there shall be a presumption in favour of the power and authority having been granted 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, without limitation, 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 4.1, the Trust is authorized to complete the transactions set forth in the Information Circular.

4.2 Specific Powers and Authorities

Subject only to the terms and conditions contained in this Declaration of Trust including, without limitation in Sections 7.1, 7.2 and 9.8, 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, shall have and may exercise, on behalf of the Trust or otherwise, 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 supervise the activities and manage the investments and affairs of the Trust;
- (b) to hold the Trust Property in safekeeping, retaining moneys, securities, property, assets or investments, and investing moneys from time to time forming part of the Trust Property;
- (c) to borrow money as necessary to pay distributions to Unitholders, and encumbering Trust Property in respect thereof;
- (d) to pay properly incurred expenses out of Trust Property;
- (e) to open, operate and close bank accounts and other similar credit, deposit and banking arrangements, to negotiate and sign banking and financing contracts and agreements and deposit monies from time to time forming part of the Trust Property in such accounts;
- (f) to possess and exercise rights, powers and privileges appertaining to ownership of or interests in Trust Property;
- (g) to hold legal title to the Trust Property;
- (h) to reinvest income and gains of the Trust and to take other actions besides the mere protection and preservation of the Trust Property;
- (i) to appoint the auditors of and registrar and transfer agent for the Trust;
- (j) to appoint the bankers of the Trust;
- (k) to ensure compliance with applicable securities legislation;
- (l) to prepare and file or cause to be prepared and filed any and all requisite returns, reports and filings;
- (m) to monitor the listing or trading of the Units on a stock exchange or other market;
- (n) to monitor the Trust's tax status as a "mutual fund trust" and, if applicable, a "real estate investment trust" within the meaning of the Tax Act;

- (o) to provide all requisite office accommodation and associated facilities;
- (p) to provide or cause to be provided to the Trust all other administrative and other services and facilities required by the Trust;
- (q) to maintain or cause to be maintained complete records of all transactions in respect of the investment portfolio of the Trust;
- (r) to prescribe any instrument provided for or contemplated by this Declaration of Trust;
- (s) to effect payment of distributions to the Unitholders;
- (t) to collect, sue for and receive all sums of money or other property or items that are believed due to the Trust and obtain security, including encumbrances on assets, to secure the full payment of monies owed to the Trust and the performance of all obligations in favour of the Trust, and to exercise all of the rights of the Trust, and to perform all of the obligations of the Trust, under such security;
- (u) to possess and exercise all the rights, powers and privileges pertaining to the ownership of all or any part of the Trust Property to the same extent that any person might, unless otherwise limited herein;
- (v) where reasonably required, to engage, employ, contract with or retain on behalf of the Trust any persons as agents, representatives, employees or independent contractors in one or more capacities;
- (w) except as prohibited by law, to delegate from time to time to the Trust's employees, consultants, agents and other persons including, without limitation, the Manager, the doing of such things and the exercise of such powers hereunder as the Board may from time to time deem expedient, so long as any such delegation is not inconsistent with any of the provisions of this Declaration of Trust and subject at all times to the general control and supervision of the Board as provided for herein;
- (x) to issue and redeem Units pursuant to the terms and conditions of this Declaration of Trust;
- (y) where desirable, to make or cause to be made application for the listing or quotation on any stock exchange or market of Units, and to do all things which in the opinion of the Board may be necessary or desirable to effect or maintain such listing or quotation;
- (z) to pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Board in connection with the Trust Property, undertaking or income of the Trust, or imposed upon or against the Trust Property in connection with the 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, allocations and determinations in respect of Trust Income, Net Realized Capital Gains or any other amounts distributed, allocated and made payable to Unitholders in a year and any other matter as shall be permitted under the Tax Act and analogous provisions of any provincial income tax legislation, and to do all such other acts and things as may be deemed by the Board in its sole discretion to be necessary, desirable or convenient;

- (aa) to do all such acts and things, and to execute, deliver and perform the obligations of the Trust under all such agreements and instruments as are necessary to complete the Combination Transaction or as are contemplated by the Information Circular; and
- (bb) to do all such other acts and things and execute all such agreements and other instruments as are incidental to the foregoing, and to exercise all powers that are necessary or useful to carry on the purpose and activities of the Trust, to promote or advance any of the purposes or objectives for which the Trust is formed and to carry out the provisions of this Declaration of Trust whether or not herein specifically mentioned.

4.3 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 the Unitholders or officers, provided that such regulations shall not be inconsistent with law or with this Declaration of Trust and not, in the opinion of the Trustees, prejudicial to 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 in accordance with this Section 4.3 shall be conclusive and binding upon all persons affected thereby.

Subject to any agreement between the Trust and any Trustee and subject 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, without limitation, 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 Trust Property, 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 duties and responsibilities hereunder.

4.4 Banking

The banking activities of the Trust, or any part thereof, including, but without restricting the generality of the foregoing, the operation of the Trust's accounts; the making, signing, drawing, accepting, endorsing, negotiation, 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 Trust Property; the execution of any agreement relating to any Trust Property; 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.

4.5 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 discharge their duties hereunder as Trustees honestly, in good faith and in the best interests of the Trust and in connection therewith, that they exercise the 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 investments, business or 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 trustee 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*.

4.6 Fees and Expenses

As part of the expenses of the Trust, the Trustees may pay or cause to be paid out of the Trust Property, reasonable fees, costs and expenses incurred in connection with the administration and management of the Trust, including (without limitation) real property and brokerage commissions in respect of investments and dispositions of real property made by the Trust, fees of auditors, accountants, lawyers, engineers, appraisers and other agents, consultants and professional advisors employed by or on behalf of the Trust, fees of stock exchanges and the cost of reporting or giving notices to Unitholders. All costs, charges and expenses properly incurred by the Trustees on behalf of the Trust shall be payable out of the Trust Property.

4.7 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 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 officer of the Trust 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 such other person to act for and on behalf and in the name of the Trust. No person dealing with the Trustees or officers of the Trust 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 or officers of the Trust for monies or other consideration shall be binding upon the Trust.

4.8 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 limitation, 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, where the Unitholder is a Plan, or other similar fund or plan registered under the Tax Act, upon plan beneficiaries and plan holders past, present and future) and 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.

4.9 Limitations on Liability of Trustees

- (a) Subject to the standard of care set forth in Section 4.5, none of the Trustees nor any officers, employees or agents of the Trust shall be liable to any Unitholder or any other person in tort, contract or otherwise for any action taken or not taken in good faith in reliance on any documents that are, *prima facie*, properly executed; for any depreciation of, or loss to, the Trust incurred by reason of the sale of any security; for the loss or disposition of monies or securities; for any action or failure to act by any person to whom the Trustees are permitted to delegate and have delegated any of their duties hereunder; or for any other action or failure to act including, without limitation, the failure to compel in any way any former Trustee to redress any breach of trust or any failure by any person to perform obligations or pay monies owed to the Trust, unless such liabilities arise out of a breach of the standard of care, diligence and skill as set out in Section 4.5. If the Trustees have retained an appropriate expert, advisor or legal counsel with respect to any matter connected with their duties under this Declaration of Trust, the Trustees may act or refuse to act based on the advice of such expert, advisor or legal counsel and, notwithstanding any provision of this Declaration of Trust, including, without limitation, the standard of care, diligence and skill set out in Section 4.5 hereof, the Trustees shall not be liable for and shall be fully protected from any action or refusal to act based on the advice of any such expert, advisor or legal counsel which it is reasonable to conclude is within the expertise of such expert or advisor to give.
- (b) The Trustees shall not be subject to any personal liability for any debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Trust arising out of anything done or permitted or omitted to be done in respect of the execution of the duties of the office of Trustees for or in respect to the affairs of the Trust unless such Trustee shall have failed to meet the standard of care set out in Section 4.5. No property or assets of the Trustees, owned in their personal capacity or otherwise, will be subject to any levy, execution or other enforcement procedure with regard to any obligations under this Declaration of Trust or under any other related agreements unless such Trustee shall have failed to meet the standard of care set out in Section 4.5. No recourse may be had or taken, directly or indirectly, against the Trustees in their personal capacity or against any incorporator, shareholder, director, officer, employee or agent of the Trustees or any successor of the Trustees unless such Trustee shall have failed to meet the standard of care set out in Section 4.5. The Trust shall be solely liable therefor and resort shall be had solely to the Trust Property for payment or performance thereof unless such Trustee shall have failed to meet the standard of care set out in Section 4.5.

In the exercise of the powers, authorities or discretion conferred upon the Trustees under this Declaration of Trust, the Trustees are and shall be conclusively deemed to be acting as trustees of the Trust Property.

4.10 Reliance

The Trustees shall be entitled to rely on statements, reports, advice or opinions (including financial statements and Auditors' reports) of consultants, the Manager, the Auditors, legal counsel and consultants or agents whose profession gives authority to a statement made by them on the subject in question and who are considered by the Trustees to be competent. The Trustee may rely and act upon any instrument or other document believed by it to be genuine and in force and shall have no liability to any person as a result of such reliance, except in the case of negligence or wilful misconduct.

4.11 Exculpatory Clauses in Instruments

The Trustees must use reasonable means where practicable to inform all persons having dealings with the Trust of the limitations of liability set forth in Sections 4.9, 18.1, 18.2 and 18.6, and must use reasonable means where practicable to cause to be inserted in any written agreement, undertaking or obligation made or issued on behalf of the Trust an appropriate statement of the disavowal and limitation of liability as set forth in Sections 4.9, 18.1, 18.2 and 18.6, but the omission of such statement from any such instrument will not render any Trustee, any Unitholder or officer, consultant or agent of the Trust liable to any person, nor will any Trustee or any Unitholder or any officer of the Trust be liable to any person for such omission. If, notwithstanding this provision, any Trustee, Unitholder or any officer of the Trust is held liable to any other person by reason of the omission of such statement from any such agreement, undertaking or obligation, such Trustee, Unitholder or officer will be entitled to indemnity out of the Trust Property to the full extent of such liability and the costs of any litigation or other proceedings in which such liability has been determined, including without limitation, the fees and disbursements of counsel.

4.12 Liability under Contracts

Any written instrument creating an obligation with respect to the Trust will be conclusively taken to have been executed or done by a Trustee only in the capacity of a Trustee under this Declaration of Trust. Any written instrument creating an obligation of the Trust will contain a disavowal of liability upon and waiver of claim against the Trustee or any Unitholder and indicate that the obligations under such instrument are not personally binding upon, nor will resort be had to the private property of any Trustee, any Unitholder, or any director, officer, employee or agent of the Unitholder, but only the Trust Property or a specific portion thereof will be bound. The omission of a provision of the nature described in this Section 4.12 will not operate to impose personal liability on any Trustee, any Unitholders, or any of the officers, employees, agents, heirs, executors or personal representatives of any of them.

4.13 Conflict of Interest

- (a) Subject to Section 19.20, if a Trustee or officer of the Trust:
- (i) is a party to a material contract or transaction or proposed material contract or transaction with the Trust (or an affiliate thereof), including a material contract or transaction involving the making or disposition of any investment in real property or a joint venture agreement; or
 - (ii) is a director or officer of, or otherwise 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 (or an affiliate thereof),

such Trustee or officer of the Trust 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:

- (iii) the disclosure required in the case of a Trustee shall be made:
 - (A) at the meeting of Trustees at which a proposed material contract or transaction is first considered;
 - (B) if the Trustee was not then interested in a proposed material contract or transaction, at the first such meeting after he becomes so interested;

- (C) if the Trustee becomes interested after a material contract is made or a transaction is entered into, at the first meeting after he becomes so interested; or
 - (D) if a person who is interested in a material contract or transaction later becomes a Trustee, at the first such meeting after he becomes a Trustee.
 - (iv) the disclosure required in the case of an officer of the Trust who is not a Trustee shall be made:
 - (A) forthwith after such person becomes aware that the material contract or transaction or proposed material contract or transaction is to be considered or has been considered at a meeting of the Trustees;
 - (B) if such person becomes interested after a material contract is made or transaction is entered into, forthwith after such person becomes aware that he has become so interested; or
 - (C) if a person who is interested in a material contract or a transaction later becomes an officer of the Trust, forthwith after he becomes an officer of the Trust.
- (b) Notwithstanding Subsections 4.13(a)(i) and 4.13(a)(ii), 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, 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 forthwith after such person becomes aware of the material contract or transaction or proposed material contract or transaction.
- (c) A Trustee referred to in this Section 4.13 shall not vote on any resolution to approve the said material contract or transaction unless the material contract or transaction is:
 - (i) one relating primarily to such Trustee's remuneration as a Trustee, officer, employee or agent of the Trust; or
 - (ii) one for indemnity of such Trustee under Section 18.1 hereof or the purchase of liability insurance;provided, however, that the presence of such Trustee at the relevant meeting or the written recognition by such Trustee of any resolution in writing shall be counted toward any quorum requirement or requirement that at least a minimum number of Trustees act.
- (d) For the purposes hereof, a general notice to the Trustees by a Trustee or an officer of the Trust disclosing that such person is a director or officer of or has a material interest in a person and is to be regarded as interested in any material contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any material contract so made or transaction so entered into. In the event that a meeting of Unitholders is called to confirm or approve a material contract or transaction which is the subject of a general notice to the Trustees, the notice and extent of the interest in the material 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 or in any information circular to be provided by this Declaration of Trust or by law.

- (e) 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 in which a Trustee or an officer of the Trust is a director or officer or in which he has a material interest:
 - (i) such person is not accountable to the Trust or to the Unitholders for any profit or gain realized from the material contract or transaction; and
 - (ii) the material contract or transaction is neither void nor voidable, by reason only of that relationship or by reason only that such person is present at or is counted to determine the presence of a quorum at the meeting of the Trustees that authorized the material contract or transaction, if such person disclosed such person's interest in accordance with this Section 4.13, and the material contract or transaction was reasonable and fair to the Trust at the time it was so approved.
- (f) Notwithstanding anything in this Section 4.13, but without limiting the effect of Subsection 4.13(c) hereof, a Trustee or an officer of the Trust, acting honestly and in good faith, is not accountable to the Trust or to the Unitholders for any profit or gain realized from any such material contract or transaction by reason only of such person holding such office or position, and the material contract or transaction, if it was reasonable and fair to the Trust at the time it was approved, is not by reason only of such person's interest therein void or voidable, where:
 - (i) the material contract or transaction is confirmed or approved at a meeting of Unitholders duly called for that purpose; and
 - (ii) the nature and extent of such person's interest in the material contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in any information circular to be provided by this Declaration of Trust or by law.
- (g) Subject to Subsections 4.13(c), 4.13(e) and 4.13(f) hereof, where a Trustee or an officer of the Trust fails to disclose such person's interest in a Material Agreement or material contract or transaction in accordance with this Declaration of Trust or otherwise fails to comply with this Section 4.13, any Trustee or any 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 material contract or transaction and directing that such person account to the Trust for any profit or gain realized.

4.14 Decisions of the Board and the Independent Trustees

All decisions of the Board will require the approval of a majority of the Trustees present in person or by phone at a meeting of the Board, except for each of the following matters which will also require the approval of a majority of the independent Trustees:

- (a) making any material change to the Management Agreement (including any termination of such agreement);
- (b) entering into any agreement or transaction in which any related party has a material interest or making a material change to any such agreement or transaction;

- (c) approving or enforcing any agreement entered into by the Trust with a related party;
- (d) permitting the Trust or any of the Trust's subsidiaries to acquire any real or other property in which a related party has an interest or to sell any interest in any real or other property to a related party; and
- (e) making or prosecuting any claim by or against any related party.

In connection with any transaction involving the Trust, including any transaction which requires the approval of a majority of the independent Trustees, the Board shall have the authority to retain external legal counsel, consultants or other advisors to assist it in negotiating and completing such transaction without consulting or obtaining the approval of any officer of the Trust.

4.15 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 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 it 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 5 OFFICERS OF THE TRUST

5.1 General

The Trust shall have a Chair of Trustees, and may have one or more other officers as the Trustees may appoint from time to time, including without limitation a Chief Executive Officer and Chief Financial Officer. Any officer of the Trust, other than the Chair of Trustees may, but need not be, a Trustee. One person may hold two or more offices. Officers of the Trust may be appointed and, without prejudice to rights under any employment contract, removed or discharged, and their powers, responsibilities and remuneration determined by the Trustees and, in the absence of such determination, their responsibilities shall be those usually applicable to the office held. A majority of officers so appointed shall be Residents.

5.2 Chair of Trustees

The Chair of Trustees and Lead Trustee shall be appointed from among the Trustees provided that the Chair of Trustees shall be a non-executive appointment. When present, the Chair of Trustees shall be chairperson of meetings of Trustees and Unitholders and shall have such other powers and duties as the Trustees may determine from time to time to manage the affairs of the Board and monitor the effectiveness of the Trustees.

5.3 Lead Trustee

If the Chair of Trustees is not an Independent Trustee, a lead trustee (the "**Lead Trustee**") shall be appointed from among the Independent Trustees. The Lead Trustee will act as an effective leader of the Board of Trustees in respect of matters required to be considered by the Independent Trustees, and will ensure that the Board of Trustee's agenda will enable it to successfully carry out its duties.

Notwithstanding the foregoing, following the Combination Transaction, the provisions of this Section 5.3 shall not apply until such time as the interim Chair of the Trustees is replaced with a non-interim Chair.

5.4 Term of Office

The Chair of Trustees and any officer appointed by the Trustees shall hold such position until his or her successor is elected or appointed, provided, without prejudice to rights under any employment contract, that the Trustees may at any time remove an officer from office at any time in their sole discretion. For greater certainty, each incumbent officer of the Trust shall continue in office until the earliest of (a) his resignation, which resignation shall be effective at the time a written resignation is received by the Trust upon 30 days' written notice or at the time specified in the resignation or in the officer's employment contract, whichever is later, (b) the appointment of his successor, (c) his removal or leave of absence due to incapacity, adjudicated incompetence or otherwise, and (d) his death.

5.5 Independent Contractors

Any office of the Trust appointed by the Trustees may be held by an individual who is not an employee of the Trust but has been retained by the Trust to hold such office pursuant to an independent service agreement entered into between the Trust and that individual or that individual's employer.

ARTICLE 6 THE MANAGER

6.1 Management of the Trust

The Trustees are hereby authorized to enter into a management agreement with the Manager (the "**Management Agreement**") containing terms set out in the Information Circular and such other terms as may be determined by the Trustees and delegating to the Manager responsibility for the services set out therein. Pursuant to the Management Agreement, the Manager will have discretion to administer and manage the day-to-day operations of the Trust, act as agent for the Trust, execute documents on behalf of the Trust and to make decisions which conform to general policies and general principles set forth herein or established by the Trustees. The Manager shall have the powers and duties expressly provided for herein and in the Management Agreement, and the Manager will have the power to further delegate administration of the Trust where in the discretion of the Manager it is in the best interests of Unitholders to do so, provided that the Manager shall not be relieved of its obligations in respect of the matters so delegated. To the extent that there is any conflict or inconsistency between the provisions of this Declaration of Trust and the provisions of such Management Agreement, the provisions of this Declaration of Trust shall govern.

6.2 Standard of Care of Manager

The Manager shall exercise its powers and discharge its duties honestly, in good faith and in the best interests of the Trust and shall exercise the degree of care, diligence and skill of a reasonably prudent person in the circumstances. Subject to the foregoing, the Manager shall not be required to devote its full time and attention to the affairs of the Trust but need only devote such time as it may deem appropriate or necessary to discharge its duties under this Declaration of Trust and the Management Agreement in a responsible manner.

6.3 Services of Manager

The Manager has the authority to manage the day-to-day activities of the Trust and, as applicable, any entity which the Trust may control from time to time, in accordance with the terms of the Management

Agreement. If requested by the Trust, the Manager shall provide services to any subsidiary or subsidiaries of the Trust.

6.4 Liability of Trustees

Subject to applicable law, the Trustees shall have no liability or responsibility for any matters delegated to the Manager hereunder or under the Management Agreement, and the Trustees, in relying on the Manager shall be deemed to have complied with its obligations under Section 4.5 and shall be entitled to the benefit of the indemnity provided in Section 18.1.

ARTICLE 7 INVESTMENT GUIDELINES AND OPERATING POLICIES

7.1 Investment Restrictions

Notwithstanding any other provision hereof, the assets of the Trust may be invested only with the approval of the Trustees and only in accordance with the following restrictions:

- (a) the Trust may only invest primarily, directly or indirectly, in interests (including fee ownership and leasehold interests) in commercial real estate properties located in the U.S. and assets ancillary thereto necessary for the operation of such real estate and such other activities as are consistent with the other investment guidelines of the Trust;
- (b) notwithstanding anything else contained in the Declaration of Trust, the Trust shall not make or hold any investment, take any action or omit to take any action or permit a subsidiary to make or hold any investment or take any action or omit to take any action that would result in:
 - (i) the Trust not qualifying as a “mutual fund trust” (effective the date it was established and thereafter) or a “unit trust” both within the meaning of the Tax Act;
 - (ii) Units not qualifying as qualified investments for Plans;
 - (iii) the Trust or any of its subsidiaries being liable to pay a tax imposed under either paragraph 122(1)(b) or subsection 197(2) of the Tax Act; unless the Trustees determine that it is in the best interests of the Trust; or
 - (iv) the Trust being liable to pay a tax under Part XII.2 of the Tax Act;
- (c) 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;
- (d) 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 these investment guidelines and operating policies of the Trust, the Trust and/or its subsidiaries may not hold securities of

a person other than to the extent such securities would constitute an investment in real property 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 and/or its subsidiaries 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;

- (e) the Trust and/or its subsidiaries 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;
- (f) the Trust and/or its subsidiaries shall not invest more than 10% of the Gross Book Value of the Trust in securities of a publicly traded entity;
- (g) the Trust and/or its subsidiaries 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 real property which otherwise meets the other investment guidelines of the Trust; and
 - (ii) the aggregate book value of the investments of the Trust and/or its subsidiaries in mortgages, after giving effect to the proposed investment, will not exceed 15% of Gross Book Value of the Trust; and
- (h) the Trust and/or its subsidiaries 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 25% of Gross Book Value of the Trust in investments which do not comply with one or more of paragraphs (a), (d) and (g).

For the purpose of the foregoing restrictions, any references to investment in real property will be deemed to include an investment in a joint venture arrangement that invests in real property.

7.2 Operating Policies

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

- (a) the Trust and/or its subsidiaries shall not purchase or sell 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 – *Mutual Funds* adopted by the Canadian Securities Administrators, as replaced or amended from time to time and, in all events, subject to paragraph (b) of "Investment Guidelines and Operating Policies – Investment Guidelines" described above;
- (b) (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 Unitholders, 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 must not be had to, nor will recourse or satisfaction be sought from, by lawsuit or otherwise the private property of any of the Trustees, Unitholders, annuitants or beneficiaries under a plan of which a

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 is bound; the Trust, however, is not required, but must use all reasonable efforts, to comply with this requirement in respect of obligations assumed by the Trust upon the acquisition of real property;

- (c) title to each real property shall be held by and registered in the name of the Trust, the Trustees or a person wholly-owned, directly or indirectly, by the Trust or jointly-owned, directly or indirectly, by the Trust, with joint venturers or by any other persons 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 or a corporation or other entity wholly-owned, directly or indirectly, by the Trust or jointly owned, directly or indirectly, by the Trust or such person as the Trustees consider appropriate shall hold a land lease as appropriate under the land tenure system in the relevant jurisdiction;
- (d) the Trust shall not incur or assume any Indebtedness if, after giving effect to the incurrence or assumption of such Indebtedness, the total Indebtedness of the Trust would be more than 60% of Gross Book Value (or 65% of Gross Book Value including convertible Indebtedness convertible into Units);
- (e) 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 and operating policies; and (ii) (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;
- (f) the Trust or a subsidiary of 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;
- (g) the Trust or a subsidiary of 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 investment committee of the Board; and
- (h) the Trust or a subsidiary of the Trust shall either (i) obtain a Phase I environmental site assessment; or (ii) be entitled to rely on a Phase I environmental site assessment dated no earlier than 12 months prior to receipt by the Trust and/or its subsidiary, of each real property to be acquired by it or any of its subsidiaries and, if the Phase I environmental site assessment report recommends that a further environmental site assessment be conducted, the Trust and/or a subsidiary of the Trust shall have conducted such further environmental site assessments, in each case by an independent and experienced environmental consultant.

For the purpose of the foregoing restrictions, any references to investment in real property will be deemed to include an investment in a joint venture arrangement that invests in real property.

7.3 Application of Investment Guidelines and Operating Policies

With respect to the investment guidelines and operating policies contained in Sections 7.1 and 7.2 and where any maximum or minimum percentage limitation is specified in any of the guidelines and policies therein contained, such guidelines and policies shall, unless otherwise specified, 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 Gross Book Value, will not require divestiture of any investment.

7.4 Amendments to Investment Guidelines and Operating Policies

All of the investment guidelines set out in Section 7.1 and the operating policies contained in Subsections 7.2(a), 7.2(b) and 7.2(e) may be amended only with the approval of two-thirds of the votes cast by Unitholders at a meeting called for such purpose. The remaining operating policies may be amended with the approval of a majority of the votes cast by Unitholders at a meeting called for such purpose.

7.5 Tax Status

The Trustees shall cause the Trust to elect, in its return of income for the first taxation year of the Trust, pursuant to 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, provided that prior to filing such return of income the Trust has sufficient unitholders so as to be entitled to make such election and has otherwise complied with the requirements thereof. 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” or qualifying as a “SIFT Trust” within the meaning of the Tax Act.

7.6 Regulatory Matters

If at any time a government or regulatory authority having jurisdiction over the Trust or any Trust Property shall enact any law, regulation or requirement which is in conflict with any investment guideline or operating policy of the Trust then in force, such guideline or operating policy 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.

ARTICLE 8 UNITS

8.1 Units

- (a) The beneficial interests in the Trust shall be divided into interests of four classes, described and designated as “Class A Units”, “Class I Units”, “Class U Units”, and “Special Voting Units” respectively, which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein. Each Unit and Special Voting Unit shall vest indefeasibly in the holder thereof and the interest of each Unitholder or Special Voting Unitholder shall be determined by the number of Units or Special Voting Units registered in the name of the Unitholder or Special Voting Unitholder. The number of Units or Special Voting Units of each class that the Trust may issue shall be unlimited. 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) The Class A Units shall be denominated in Canadian dollars, while the Class U Units and Class I Units shall be denominated in U.S. dollars.
- (c) Each Unit entitles the holder to the same rights and obligations as a Unitholder and no Unitholder is entitled to any privilege, priority or preference in relation to any other Unitholder, subject to the proportionate entitlement of the holders of Class A Units, Class I Units and Class U Units to participate in distributions made by the Trust including distributions of Net Realized Capital Gains or income, if any, and to receive proceeds on a redemption of Units and/or upon termination of the Trust. For any distribution by the Trust, the Trustees shall establish a distribution per Class U Unit and each Class A Unit and Class I Unit shall be entitled to a distribution calculated based on the Proportionate Class A Interest and the Proportionate Class I Interest, respectively.
- (d) Each Unitholder is entitled to one vote per Unit or Special Voting Unit held and votes of Unitholders and Special Voting Unitholders will be conducted with holders of Class A Units, Class I Units, Class U Units and Special Voting Units voting together as a single class.

8.2 Special Voting Units

- (a) Special Voting Units have no economic entitlement nor beneficial interest in the Trust or in the distribution of assets in the Trust, but entitle the holder to one vote per Special Voting Unit at any meeting of the Unitholders and Special Voting Unitholders of the Trust. Special Voting Units may only be issued in connection with or in relation to Exchangeable Securities for the purpose of providing voting rights with respect to the Trust to the holders of such securities.
- (b) Special Voting Units will be issued in conjunction with the Exchangeable Securities to which they relate, and will be evidenced only by the ownership of such Exchangeable Securities.
- (c) Special Voting Units will not be transferable separately from the Exchangeable Securities to which they are attached and will be automatically transferred upon the transfer of such securities.
- (d) Upon the exchange or surrender of an Exchangeable Security for a Unit, the Special Voting Unit attached to such Exchangeable Security will automatically be redeemed and cancelled for no consideration without any further action of the Trustees, and the former holder of such Special Voting Unit will cease to have any rights with respect thereto.

8.3 Conversion Rights for Class A Units and Class I Units

- (a) The Trust hereby grants to each holder of Class A Units and Class I Units the right (the “**Conversion Right**”) at any time to require the Trust to exchange with such holder, upon delivery of a Conversion Notice in the form set out in Schedule B hereto and in accordance with this Section 8.3, the Applicable Number of Class U Units issuable in exchange for the applicable number of Class A Units or Class I Units.

- (b) For the purposes of this Section 8.3, a Class A Unit or Class I Unit shall be deemed to be surrendered for conversion on the date on which the Transfer Agent received a Conversion Notice in the form set out in Schedule B hereto and all necessary documentation in respect of the exercise of the conversion rights at its principal office in Toronto, Ontario (in each case the “**Date of Conversion**”). A holder of Class A Units that is not a registered holder of such Class A Units that wishes to exercise the Conversion Right will be required to obtain a conversion notice form from the Unitholder’s investment dealer or broker who will be required to deliver the completed Conversion Notice to the Trust and to CDS.
- (c) The registered holder of a Class A Unit or Class I Unit desiring to convert Class A Units or Class I Units into Class U Units shall deliver a Conversion Notice (and certificates representing such Class A Units or Class I Units, as applicable) in the form set out in Schedule B hereto duly executed by the holder or his or her executors or administrators or other legal representatives or his, her or their attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Transfer Agent, to the Transfer Agent at its principal offices in Toronto. Thereupon, subject to payment of all applicable stamp or security transfer, income, withholding or other taxes or other governmental charges and compliance with all reasonable requirements of the Transfer Agent (including, for greater certainty, the withholding obligation of the Transfer Agent pursuant to Section 8.3(g) hereof), such Unitholder or his or her nominee(s) or assignee(s) shall be entitled to be entered in the books of the Trust on the Business Day immediately after the Date of Conversion, as the holder of the Applicable Number of Class U Units into which such Class A Units or Class I Units were convertible, net of applicable withholding taxes, if any. If the number of Class U Units issuable pursuant to a conversion under this Section 8.3 would result in a fraction of a Class U Unit, such fractional Class U Unit shall not be issued by the Trust and the number of Class U Units shall be rounded down to the nearest whole number of Class U Units.
- (d) Where a registered holder holds a physical certificate representing such Class A Units or Class I Units, of which only a part is converted, such registered holder shall, upon the exercise of his or her right of conversion, surrender such Class A Units or Class I Units to the Transfer Agent, and the Transfer Agent shall cancel the same and shall without charge forthwith certify and deliver to the holder a new certificate for the remaining Class A Units or Class I Units.
- (e) In the event that there is a change in the number of Class A Units, Class I Units or the Class U Units outstanding from time to time as a result of a subdivision, distribution of Units, consolidation (other than a *pro rata* distribution of Units immediately followed by a consolidation pursuant to Section 12.6) or similar change (a “**Reorganization**”), the Applicable Number of Class U Units in respect of one Class A Unit or Class I Unit immediately following the Reorganization and the Proportionate Class A Interest and the Proportionate Class I Interest will be adjusted to reflect such Reorganization. The rights of adjustment provided for herein upon Reorganization are to be cumulative. Any determinations as to the adjustments to be made under this Section 8.3(e) shall be made by the Trustees in their sole and absolute discretion.
- (f) The Trust hereby covenants and agrees that all Class U Units that are to be issued to the Class B Unitholders on the due exercise of the Conversion Right will be duly authorized and issued, free and clear of all adverse claims (except any claims arising as a result of actions or omissions of the Unitholder).

- (g) The Trust will be entitled to deduct and withhold from any consideration otherwise payable hereunder to any holder of Class A Units or Class I Units (including the issuance of Class U Units on an exercise of the Conversion Right) any amounts as the Trust may from time to time be required to deduct and withhold with respect to that payment under the Tax Act, or any provision of provincial, state, local or foreign tax law, in each case as amended or succeeded. To the extent that amounts are so withheld, the withheld amounts will be treated for all purposes as having been paid to the holder of the Class A Units or Class I Units in respect of which the deduction and withholding was made, provided that the withheld amounts are actually remitted to the appropriate taxing authority. To the extent that the amounts so required to be deducted or withheld from any payment to a holder exceeds the cash portion of the consideration otherwise payable to the holder, the Trust is hereby authorized to sell or otherwise dispose of any portion of the consideration as is necessary to provide sufficient funds to the Trust to enable it to comply with the deduction or withholding requirements and the Trust will notify the holder and remit to the holder any unapplied balance of the net proceeds of the sale.

8.4 Consideration for Units

No Units shall be issued other than as fully paid and non-assessable. 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.

8.5 Pre-Emptive Rights

Subject to any binding agreement entered into by the Trust, no person shall be entitled, as a matter of right, to subscribe for or purchase any Units of the Trust.

8.6 Fractional Units

Fractional Units shall not, except to the extent that they may represent in the aggregate one or more whole Units, entitle the holders thereof to notice of or to attend or to vote at, meetings of Unitholders. Subject to the foregoing, such fractional Units shall have attached thereto the rights, restrictions, conditions and limitations attaching to whole Units in the proportion that they bear to a whole Unit.

8.7 Allotment and Issue

The Trustees may allot and issue Units at such time or times and in such manner (including, without limitation, pursuant to any incentive or option plan, any plan from time to time in effect relating to reinvestment by Unitholders or holders of Exchangeable Securities of distributions in Units and as consideration for the acquisition of properties or assets, at a price or for such consideration as determined by the Trustees) and for such consideration and to such person, persons or class of persons as the Trustees in their sole discretion shall determine. In the event that Units are issued in whole or in part for a consideration other than money, the resolution of the Trustees allotting and issuing such Units shall express the fair equivalent in money of the other consideration received. The price or value of the consideration for which Units may be issued will be determined by the Trustees in their sole discretion, generally in consultation with investment dealers or brokers who may act as underwriters in connection with offerings of Units.

8.8 Rights, Warrants and Options

The Trust may create and issue rights, warrants or options or other instruments or securities to subscribe for fully paid Units which rights, warrants, options, instruments or securities may be exercisable at such subscription price or prices and at such time or times as the Board may determine. The rights, warrants, options, instruments or securities so created may be issued for such consideration or for no consideration, all as the Board may determine. A right, warrant, option, instrument or security shall not be a Unit and a holder thereof shall not be a Unitholder. Upon the approval by the Board of any unit option plan for the Trustees, officers and/or employees of the Trust or any subsidiary of the Trust and/or their personal holding companies or family trusts and/or persons who provide services to the Trust, the Board may grant options upon the terms and subject to the conditions set forth in such plan.

Subject to the provisions of Article 7 hereof, the Board may create and issue indebtedness of the Trust in respect of which interest, premium or principal payable thereon may be paid, at the option of the Trust or the holder, in fully paid Units, or which indebtedness, by its terms, may be convertible into Units at such time and for such prices as the Board may determine. Any indebtedness so created shall not be a Unit and a holder thereof shall not be a Unitholder unless and until fully paid Units are issued in accordance with the terms of such indebtedness.

8.9 Commissions and Discounts

The Board 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 other securities issued by the Trust or of their agreeing to procure subscriptions therefor, whether absolute or conditional.

8.10 Transferability

The Units are freely transferable and, except as stipulated in Section 8.11, the Board shall not impose any restriction on the transfer of Units by any Unitholder except with the consent of such Unitholder. Special Voting Units will not be transferable separately from the Exchangeable Securities to which they are attached and will be automatically transferred upon the transfer of such securities.

8.11 Transfer of Units

- (a) Subject to the provisions of this Article 8, the Units shall be for all purposes of the Trust and this Declaration of Trust, personal and moveable property, and the Units shall be fully transferable without charge as between persons, but no transfer of Units shall be effective as against the Trustees or shall be in any way binding upon the Trustees until the transfer has been recorded on the Register maintained by the Trustees, the Trust or the Transfer Agent. No transfer of a Unit shall be recognized unless such transfer is of a whole Unit.
- (b) Subject to the provisions of this Article 8, Units shall be transferable on the Register only by the holders of record thereof or their executors, administrators or other legal representatives or by their agents or attorneys duly authorized in writing, and only upon delivery to the Trust or to the Transfer Agent of a duly executed instrument of transfer or power of attorney (and where applicable, the certificate therefor) and accompanied by all necessary transfer or other taxes imposed by law, together with such evidence of the genuineness of such endorsement, execution and authorization and other matters that may reasonably be required by the Trustees or the Transfer Agent. Upon such delivery the transfer shall be recorded on the Register or branch transfer registers and, where applicable, a new Unit Certificate for the Units shall be issued to the transferee and a new

Unit Certificate for the balance of the Units not transferred shall be issued to the transferor.

- (c) Unit Certificates representing any number of Units may be exchanged without charge for Unit Certificates representing an equivalent number of Units in the aggregate. Any exchange of Unit Certificates may be made at the offices of the Trust or the Transfer Agent where registers are maintained for Unit Certificates pursuant to the provisions of this Article 8. Any Unit Certificates tendered for exchange shall be surrendered to the Trustees or appropriate Transfer Agent and then shall be cancelled.

8.12 Non-Resident Ownership Constraint

At no time may Non-Residents be the beneficial owners of more than 49% of the Units then outstanding and the Board will inform the Transfer Agent of this restriction. The Board may require declarations as to the jurisdictions in which beneficial owners of Units are resident for the purposes of the Tax Act. If the Board becomes aware, as a result of requiring such declarations as to beneficial ownership or otherwise, that the beneficial owners of 49% of the Units then outstanding are, or may be, Non-Residents or that such a situation is imminent, the Trustees shall inform the Transfer Agent and the Transfer Agent shall not accept a subscription for Units from or issue Units to a person unless the person provides a declaration that the person is not a Non-Resident.

If, notwithstanding the foregoing, the Trustees determine that more than 49% of the Units are held by Non-Residents, the Trustees may send a notice to Non-Resident holders of Units, chosen in inverse order to the order of acquisition or registration or in such other 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 Trustees may, on behalf of such Unitholders sell such Units without further notice and, in the interim, must suspend the voting and distribution rights attached to such Units. Upon such sale the affected holders shall cease to be holders of Units and their rights will be limited to receiving the net proceeds of sale, subject to the right to receive payment of any distribution declared by the Trustees which is unpaid and owing to such Unitholders. The Trustees shall have no liability for the amount received provided that they act in good faith.

Notwithstanding the foregoing, the Trustees may determine not to take any of the actions described above if the Trustees have been advised by legal counsel that the failure to take any of such actions would not adversely impact the status of the Trust as a “mutual fund trust” for purposes of the Tax Act or alternatively, may take such other action or actions as may be necessary to maintain the status of the Trust as a “mutual fund trust” for purposes of the Tax Act.

For greater certainty, the Trust may sell Units in accordance with the terms hereof despite the fact that the Trust does not possess the Unit Certificate or Unit Certificates, if any, representing the Units at the time of the sale. Where, in accordance with this Section 8.12, Units are sold by the Trust without possession of the Unit Certificate or Unit Certificates, if any, representing the same and, after the sale, a person establishes that it is a *bona fide* purchaser without notice of the Units from the Unitholder, then, subject to applicable law:

- (a) the Trust shall be entitled to treat the Units so purchased by the *bona fide* purchaser as validly issued and outstanding Units in addition to the Units sold by the Trust; and

- (b) notwithstanding any other provisions of this Declaration of Trust, the Trust is entitled to the deposit made with respect to such sale and shall add the amount of the deposit to the capital account maintained by the Trust in respect of outstanding Units.

The Trustees shall have the sole right and authority to make any determination required or contemplated under this Section 8.12. The Trustees shall make all determinations necessary for the administration of the provisions of this Section 8.12 and, without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a contravention of the non-resident ownership restriction has occurred or will occur, the Trustees shall make a determination with respect to the matter. Any such determination shall be conclusive, final and binding except to the extent modified by any subsequent determination by the Trustees. Notwithstanding the foregoing, the Trustees may delegate, in whole or in part, their power to make a determination to any officer of the Trust.

8.13 Non-Certificated Inventory System

The provisions of this Section 8.13 shall not in any way alter the nature of Units or the relationships of a Unitholder to the Trustees and of one Unitholder to another but are intended only to facilitate the recording of all transactions in respect of Units whether by the Trust, securities dealers, stock exchanges, transfer agents, registrars or other persons.

Except as otherwise provided below, registration of interests in and transfers of Units held through CDS, or its nominee, will be made electronically through the NCI system of CDS. On Closing, the Trust, via its Transfer Agent, will electronically deliver the Units registered to CDS or its nominee, and CDS will credit interests in such Units to the accounts of the CDS Participants. Units held in CDS will be purchased, transferred and surrendered for redemption through a CDS Participant. All rights of beneficial Unitholders who hold Units in CDS must be exercised through, and all payments or other property to which such beneficial Unitholders are entitled will be made or delivered by CDS or the CDS Participant through which the beneficial Unitholder holds such Units. A beneficial holder of a Unit participating in the NCI system will not be entitled to a certificate or other instrument from the Trust or the Transfer Agent evidencing that person's interest in or ownership of Units, nor, to the extent applicable, will such beneficial Unitholder be shown on the records maintained by CDS, except through an agent who is a CDS participant.

Except as described below, no purchaser of a Unit will be entitled to a certificate or other instrument from the Trust evidencing that purchaser's ownership thereof, and no holder of a beneficial interest in a Unit (a “**Beneficial Owner**”) will be shown on the records maintained by CDS except through the accounts of CDS Participants acting on behalf of the Beneficial Owners. CDS will be responsible for establishing and maintaining accounts for CDS Participants having interests in the Units, and sales of interests in the Units can only be completed through CDS Participants.

Units may be issued in fully registered form to holders or their nominees, if any, who purchase the Units pursuant to a private placement of Units made in reliance upon Rule 144A adopted under the United States Securities Act of 1933, and to transferees thereof in the United States who purchase such Units in reliance upon Rule 144A. Likewise, any Units transferred to a transferee within the United States or outside the United States to a “U.S. Person” (within the meaning of Regulation S) may be evidenced in definitive certificates representing any such Units unless the Trust otherwise agrees that such Units need not be evidenced in definitive certificates. If any such Units represented by definitive certificates are subsequently traded into Canada, or otherwise outside the United States in compliance with Regulation S, the Transfer Agent will electronically deliver such Units registered to CDS or its nominee, and CDS will credit interests in such Units to the accounts of the CDS Participants as directed by the Transfer Agent.

Except as noted in the foregoing paragraph, Units will be issued in fully registered form to holders or their nominees, other than CDS or its nominee, only if: (i) the Trust is required to do so by applicable law; (ii) the depository system of CDS ceases to exist; (iii) the Trust determines that CDS is no longer willing, able or qualified to discharge properly its responsibility as depository and the Trust is unable to locate a qualified successor; (iv) the Trust at its option elects to prepare and deliver definitive certificates representing any or all Units; or (v) the Trust at its option elects to terminate the NCI system in respect of the Units through CDS.

All references herein to actions by, notices given or payments made to Unitholders shall, where such Units are held through CDS, refer to actions taken by, or notices given or payments made to, CDS upon instruction from the CDS Participants in accordance with CDS's rules and procedures. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of Unitholders evidencing a specified percentage of the aggregate Units outstanding, such direction or consent may be given by Unitholders acting through CDS and the CDS Participants owning Units evidencing the requisite percentage of the Units, subject to the voting rights of holders of Special Voting Units. The rights of a Unitholder whose Units are held through CDS shall be exercised only through CDS and the CDS Participants and shall be limited to those established by law and agreements between such Unitholders and CDS and/or the CDS Participants or upon instruction from the CDS Participants. Each of the Transfer Agent and the Trustees may deal with CDS for all purposes (including the making of payments) as the authorized representative of the respective Unitholders and such dealing with CDS shall constitute satisfaction or performance, as applicable, towards their respective obligations hereunder.

For so long as Units are held through CDS, if any notice or other communication is required to be given to Unitholders, the Trustees and the Transfer Agent will give all such notices and communications to CDS.

If CDS resigns or is removed from its responsibilities as depository and the Trustees are unable or do not wish to locate a qualified successor, CDS shall surrender the Units held by it to the Transfer Agent with instructions from CDS for registration of Units in the name and in the amounts specified by CDS and the Trust shall issue and the Trustee and Transfer Agent shall execute and deliver the aggregate number of Units then outstanding in the form of definitive Unit Certificates representing such Units.

8.14 Certificate Fee

The Trustees may establish a reasonable fee to be charged for every Unit Certificate issued.

8.15 Form of Unit Certificate

The form of certificate representing Units and the instrument of transfer, if any, on the reverse side thereof shall be in such form as is from time to time authorized by the Trustees.

8.16 Unit Certificates

- (a) Unit Certificates shall, subject to the provisions hereof, be in such form as is authorized from time to time by the Trustees.
- (b) If issued, Unit Certificates are issuable only in fully registered form.
- (c) The definitive form of the Unit Certificates shall:
 - (i) be in the English language or in the English language and the French language;

- (ii) be dated as of the date of issue thereof; and
 - (iii) contain such distinguishing letters and numbers as the Trustees shall prescribe.
- (d) In the event that the Unit Certificate is translated into the French language and any provision of the Unit Certificate in the French language shall be susceptible of an interpretation different from the equivalent provision in the English language, the interpretation of such provision in the English language shall be determinative.
- (e) Each Unit Certificate shall be signed on behalf of the Trustees and, unless otherwise decided by the Trustees, signed or certified by the Transfer Agent of the Trust. The signature of the Trustees required to appear on such certificate may be printed, lithographed or otherwise mechanically reproduced thereon and, in such event, certificates so signed are as valid as if they had been signed manually. If a Unit Certificate contains the printed or mechanically reproduced signature of a person, then the Trust may issue the Unit Certificate even though such person has ceased to be a Trustee or an authorized representative thereof and such Unit Certificate is a valid as if such person continued to be a Trustee or an authorized representative thereof at the date of its issue.

8.17 Contents of Unit Certificates

- (a) Until otherwise determined by the Trustees, each Unit Certificate shall legibly set forth on the face thereof, *inter alia*, the following:
- (i) the name of the Trust and the words “A trust governed under the laws of the Province of Ontario governed by a Second Amended and Restated Declaration of Trust made the 15th day of April, 2014, as amended from time to time” or words of like effect;
 - (ii) the name of the person to whom the Unit Certificate is issued as Unitholder;
 - (iii) the number of Units represented thereby and whether or not the Units represented thereby are fully paid;
 - (iv) that the Units represented thereby are transferable;
 - (v) “The Units represented by this certificate are issued upon the terms and subject to the conditions of the Declaration of Trust, which Declaration of Trust is binding upon all holders of Units and, by acceptance of this certificate, the holder assents to the terms and conditions of the Declaration of Trust. A copy of the Declaration of Trust, pursuant to which this certificate and the Units represented thereby are issued, may be obtained by a Unitholder on demand and without fee from the head office of the Trust” or words of like effect; and
 - (vi) “For information as to personal liability of a Unitholder, see the reverse side of this certificate” or words of like effect.
- (b) Until otherwise determined by the Trustees, each such certificate shall legibly set forth on the reverse side thereof, *inter alia*, the following:
- (i) “The Declaration of Trust provides that no Unitholder shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in

connection with the assets of the Trust or the obligations or the affairs of the Trust and all such persons shall look solely to the assets of the Trust for satisfaction of claims of any nature arising out of or in connection therewith and the assets of the Trust only shall be subject to levy or execution”, or words of like effect; and

- (ii) appropriate forms of notice of exercise of the right of redemption and of powers of attorney for transferring Units.

The Unit Certificates may be engraved, printed or lithographed, or partly in one form and partly in another, as the Trustees may determine.

8.18 Register of Unitholders

A register (the “**Register**”) shall be kept at the principal office in Toronto, Ontario of the Trust and/or the Transfer Agent, which Register shall contain the names and addresses of the Unitholders, the respective numbers of Units held by them, the certificate numbers of certificates representing such Units and a record of all transfers and redemptions thereof. Only Unitholders whose certificates are so recorded shall be entitled to receive distributions or to exercise or enjoy the rights of Unitholders hereunder. The Trustees shall have the right to treat the person registered as a Unitholder on the Register as the owner of such Units for all purposes, including, without limitation, payment of any distribution, giving notice to Unitholders and determining the right to attend and vote at meetings of Unitholders.

8.19 Successors in Interest to Unitholders

Any person purporting to become entitled to any Units as a consequence of the death, bankruptcy or incompetence of any Unitholder or otherwise by operation of law, shall be recorded in the Register as the holder of such Units, but until such record is made, the Unitholder of record shall continue to be and shall be deemed to be the holder of such 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 and any person becoming entitled to such Units shall be bound by every notice or other document in respect of the Units which shall have been duly given to the person from whom such person derives title to such Units. Once such record is made, the Trustees shall deal with the new holder of such units as Unitholder from thereon and shall have no liability to any other person purporting to have been entitled to the Units prior to the making of such record.

8.20 Units Held Jointly or in Fiduciary Capacity

The Trust may treat two or more persons holding any Unit as joint tenants of the entire interest therein unless the ownership is expressly otherwise recorded in the Register, but no entry shall be made in the Register that any person is in any other manner entitled to any future, limited or contingent interest in any Unit; provided, however, that any person recorded in the Register as a Unitholder may, subject to the provisions herein contained, be described in the Register 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.

8.21 Performance of Trusts

None of the Trustees of the Trust, the officers of the Trust, the Unitholders or the 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 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 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 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 or other securities or interest therein by any such Unitholder or holder of such security or his 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.

8.22 Lost Unit Certificates

In the event that any Unit Certificate is lost, stolen, destroyed or mutilated, the Trustees may authorize the issuance of a new Unit Certificate for the same number of Units in lieu thereof. The Trustees may in their discretion, before the issuance of such new Unit Certificate, require the owner of the lost, stolen, destroyed or mutilated Unit 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 or any officers of the Trust deem necessary and may require the applicant to surrender any mutilated Unit Certificate and to require the applicant to supply to the Trust a "lost certificate bond" or similar bond in such reasonable amount as the Trustees direct indemnifying the Trustees or any officers of the Trust and the Transfer Agent for so doing. The Trustees or any officers of the Trust 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 Unit Certificates. The Trust shall pay all premiums and other sums of money payable for such purpose out of the Trust Property with such contribution, if any, by those insured as may be determined by the Trustees or any officers of the Trust. If such blanket lost security bond is acquired, the Trustees or any officers of the Trust 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 Unit Certificates without further action or approval by the Trustees or any officers of the Trust.

8.23 Death of Unitholders

The death of a 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 a right to an accounting or to take any action in the courts or otherwise against other Unitholders or the Trustees, officers of the Trust or the Trust Property, but shall only entitle the personal representatives or the heirs of the estate of the deceased Unitholder to succeed to all rights of the deceased Unitholder under this Declaration of Trust.

8.24 Unclaimed Payments

In the event that the Trustees hold any amounts to be paid to Unitholders under Article 12 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 Guardian and Trustee (or other similar government official or agency) in the province where the Trust has its principal office whose receipt shall be a good and sufficient discharge of the obligations of the Trustees.

8.25 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 or the rules or policies of any applicable stock exchange.

8.26 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, calculated on a fully-diluted basis, 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 8.26, to acquire the Units held by holders of Units that did not tender to the take-over bid (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) offerees holding more than 90% of the Units, calculated on a fully diluted basis, accepted the take-over bid, 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;
 - (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 his Units to the offeror on the terms on which the offeror acquired the Units of the offerees who accepted the takeover bid, or
 - (B) to demand payment of the fair value of his Units in accordance with Subsections 8.26(h) to 8.26(q) by notifying the offeror within 20 days after he receives the offeror’s notice;
 - (iv) a dissenting offeree who does not notify the offeror in accordance with Subparagraph 8.26(b)(iii)(B) is deemed to have elected to transfer his 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 his Units to which the take-over bid relates to the Trust within 20 days after he receives the offeror’s notice.
- (c) Concurrently with sending the offeror’s notice under Subsection 8.26(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 8.26(b) shall, within 20 days after he receives that notice, send his Unit Certificates to the Trust.
- (e) Within 20 days after the offeror sends an offeror’s notice under Subsection 8.26(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 Subparagraph 8.26(b)(iii)(A).

- (f) The Trust is deemed to hold in trust for the dissenting offeree the money or other consideration it receives under Subsection 8.26(e) and the Trust shall deposit the money in a separate account in a bank or other body corporate any deposits of which are insured by the Canada Deposit Insurance Corporation or guaranteed by the Québec Deposit Insurance Board, and shall place the other consideration in the custody of a bank or such other body corporate.
- (g) Within 30 days after the offeror sends an offeror's notice under Subsection 8.26(b), the Trust shall:
 - (i) issue to the offeror a Unit Certificate 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 Subparagraph 8.26(b)(iii)(A) and who sends his Unit Certificates as required under Subsection 8.26(d), the money or other consideration to which he is entitled, disregarding fractional Units, if any, which may be paid for in money; and
 - (iii) send to each dissenting offeree who has not sent his Unit Certificates as required under Subsection 8.26(d) a notice stating that:
 - (A) his Units have been cancelled,
 - (B) the Trust or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his Units, and
 - (C) the Trust will, subject to Subsections 8.26(h) to 8.26(q), send that money or other consideration to him forthwith after receiving his Units.
- (h) If a dissenting offeree has elected to demand payment of the fair value of his Units under Subparagraph 8.26(b)(iii)(B), the offeror may, within 20 days after it has paid the money or transferred the other consideration, under Subsection 8.26(e), apply to a court to fix the fair value of the Units of that dissenting offeree.
- (i) If an offeror fails to apply to a court under Subsection 8.26(h), a dissenting offeree may apply to a court for the same purpose within a further period of 20 days.
- (j) Where no application is made to a court under Subsection 8.26(i) within the period set out in that subsection, a dissenting offeree is deemed to have elected to transfer his Units to the offeror on the same terms that the offeror acquired the Units from the offerees who accepted the take-over bid.
- (k) An application under Subsections 8.26(h) or 8.26(i) shall be made to a court having jurisdiction in the place where the Trust has its registered office.
- (l) A dissenting offeree is not required to give security for costs in an application made under Subsections 8.26(h) or 8.26(i).

- (m) On an application under Subsections 8.26(h) or 8.26(i):
 - (i) all dissenting offerees referred to in Subparagraph 8.26(b)(iii)(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 his right to appear and be heard in person or by counsel.
- (n) On an application to a court under Subsections 8.26(h) or 8.26(i) 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.
- (o) 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.
- (p) The final order of the court shall be made against the offeror in favour of each dissenting offeree and for the amount for his Units as fixed by the court.
- (q) In connection with proceedings under this Section 8.26, 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 8.26(f);
 - (ii) order that money or other consideration be held in trust by a person other than the Trust; and
 - (iii) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date he sends or delivers his Unit Certificates under Subsection 8.26(d) until the date of payment.
- (r) Where an offeror is entitled to acquire Units held by a dissenting offeree pursuant to Subsection 8.26(b) and the offeror wishes to exercise such right, the offeror shall also deliver an offer (the “**Exchange Offer**”) to the Trustees, at the same time that an offeror’s notice is delivered pursuant to Subsection 8.26(b), addressed to each holder of Exchangeable Securities to acquire all Units issued to such holder by the Trust following the exchange of the holder’s Exchangeable Securities for Units. The Exchange Offer shall be made on the same terms as the Offeror, if accepted by a holder of Exchangeable Securities, acquired the Units of the Unitholders who accepted the take-over bid and the exchange by the holder of the Exchangeable Securities and the acquisition by the Offeror of the Units issuable upon exchange thereof shall occur within 30 days of delivery of the Exchange Offer to the Trustees. The Trustees shall deliver the Exchange Offer to each holder of Exchangeable Securities forthwith upon receipt, if any such holders exist.
- (s) In the event that a non-exempt take-over bid is made for Units, unless the take-over bid is structured to permit holders of Exchangeable Securities to both exchange and tender conditional on take-up, then, from and after the first take-up of Units under the said take-over bid (provided that not less than 25% of the Units other than Units held at the date of the take-over bid by the offeror or associates or affiliates of the offeror are so taken up) the terms and conditions of the Exchangeable Securities will be amended such that the

exchange ratio shall be varied to equal 110% of the exchange ratio then in effect (such that on conversion, exercise or exchange the holder shall receive 1.1 Units for each Unit that the holder would otherwise have received). For greater certainty, notwithstanding any adjustment contemplated by this section, the holders of such Exchangeable Securities shall not be entitled to any adjustment to their entitlement to distributions until such time as such Exchangeable Securities are exchanged for Units.

8.27 Coattails

Notwithstanding anything else contained in this Declaration of Trust, no holder of Class A Units or Class I Units may effect a transfer of Class A Units or Class I Units to a third party, in whole or in part, unless (i) the conditions of such transfer would not require the person acquiring such Class A Units or Class I Units to make an offer to the registered holders of Class U Units to acquire Class U Units on the same terms and conditions under applicable securities laws if such Class A Units or Class I Units, and all other outstanding Class A Units and Class I Units, were converted into Class U Units in accordance with their terms; or (ii) the person acquiring such Class A Units or Class I Units submits an identical and contemporaneous offer for Class U Units to the registered holders thereof (having regard to timing, price, proportion of securities sought to be acquired and any other conditions thereto), and acquires such Class A Units or Class I Units along with a proportionate number of Class U Units actually tendered to such identical offer.

ARTICLE 9 MEETINGS OF UNITHOLDERS

9.1 Meetings of Unitholders

There shall be an annual meeting of the Unitholders, commencing in 2015 (for the Trust's 2014 fiscal year), at such time and place in Canada and for such purposes as the Trustees may prescribe for the purpose of electing Trustees, appointing or removing 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 shall be held after delivery to the Unitholders of the annual report referred to in Section 19.8 and, in any event, within 270 days after the end of each Fiscal Year.

9.2 Other Meetings

The Trustees shall have power at any time to call special meetings of the Unitholders at such time and place as the Trustees may determine.

Unitholders holding in the aggregate not less than 5% of the outstanding Units of the Trust may requisition the Trustees in writing to call a special meeting of the Unitholders for the purposes stated in the requisition. If there are no Trustees, the officers of the Trust shall promptly call a special meeting of the Unitholders for the election of successor Trustees. The requisition shall state in reasonable detail the business proposed to be transacted at the meeting and shall be sent to each of the Trustees at the principal office of the Trust. Unitholders shall have the right to obtain a list of Unitholders to the same extent and upon the same conditions as those which apply to shareholders of a corporation governed by the *Canada Business Corporations Act*. Upon receiving the requisition, the Trustees shall call a meeting of Unitholders to transact the business referred to in the requisition, unless:

- (a) a record date for a meeting of the 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 have given notice thereof pursuant to Section 9.2; or
- (c) in connection with the business as stated in the requisition:
 - (i) it clearly appears to the Trustees, acting reasonably, that the matter covered by the requisition is submitted by the Unitholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the Trust, the Trustees, the officers of the Trust or its security holders, or primarily for the purpose of promoting general economic, political, racial, religious, social or similar causes;
 - (ii) the Trust, at the Unitholder's request, included a matter covered by a requisition in an information circular relating to a meeting of Unitholders held within two years preceding the receipt of such request, and the Unitholder failed to present the matter, in person or by proxy, at the meeting;
 - (iii) substantially the same matter covered by the requisition was submitted to Unitholders in an information circular (including a dissident's information circular) relating to a meeting of Unitholders held within two years preceding the receipt of the Unitholder's request and the matter covered by the requisition was defeated; or
 - (iv) the rights conferred by this Section 9.2 are being abused to secure publicity.

Subject to the foregoing, if the Trustees do not within 21 days after receiving the requisition call a meeting, any Unitholder who signed the requisition may call the meeting in accordance with the provisions of Section 9.3 and Section 9.9 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 for the election of successor Trustees. The phrase "meeting of the Unitholders" wherever it appears in this Declaration of Trust shall mean and include both an annual meeting and any other meeting of Unitholders.

9.3 Notice of Meetings of Unitholders

Notice of all meetings of the Unitholders shall be mailed or delivered by the Trustees to each Trustee, Unitholder and to the Auditors of the Trust not less than 21 days nor more than 60 days or within such other number of days as required by law or relevant stock exchange before the meeting. Such notice shall specify the time when, and the place where, such meeting is to be held and shall state briefly the general nature of the business to be transacted at such meeting, and shall otherwise include such information as would be provided to shareholders of a corporation governed by the *Canada Business Corporations Act* in connection with a meeting of shareholders. Notice of any meeting of the Unitholders shall state the purposes of the meeting. Any adjourned meeting, other than a meeting adjourned for lack of a quorum under Section 9.6, may be held as adjourned without further notice. Notwithstanding the foregoing, a meeting of Unitholders may be held at any time without notice if all the Unitholders are present or represented thereat or those not so present or represented have waived notice. Any Unitholder (or a duly appointed proxy of a Unitholder) may waive any notice required to be given under the provisions of this Section 9.2, and such waiver, whether given before or after the meeting, shall cure any default in the giving of such notice. Attendance at a meeting of Unitholders shall constitute a waiver of notice unless the Unitholder or other person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not properly called.

9.4 Nominations 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 to the Board may be made at any annual meeting of Unitholders, or at any special meeting of 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 Board, including pursuant to a notice of meeting;
 - (ii) by the Manager pursuant to the terms of the Management Agreement;
 - (iii) by or at the direction or request of one or more Unitholders pursuant to a requisition of the Unitholders made in accordance with this Article 9; or
 - (iv) by any person (a “**Nominating Unitholder**”): (A) who, at the close of business on the date of the giving of the notice provided for below in this Section 9.4 and on the record date for notice of such meeting, is entered in the Register as a holder of one or more Units carrying the right to vote at such meeting or who beneficially owns Units that are entitled to be voted at such meeting; and (B) who complies with the notice procedures set forth below in this Section 9.4.
- (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 a 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, not less than 30 nor more than 60 days prior to the date of the annual meeting of Unitholders; provided, however, that in the event that the annual meeting of Unitholders is to be held on a date that is less than 50 days after the date (the “**Notice Date**”) that is the earlier of the date that a notice of meeting is filed for such meeting or the 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 10th day following the Notice Date; and
 - (ii) in the case of a special meeting (which is not also an annual meeting) of Unitholders called for the purpose of electing Trustees (whether or not called for other purposes), not later than the close of business on the 15th day following the day that is the earlier of the date that a notice of meeting is filed for such meeting or the date on which the first public announcement of the date of the special meeting of Unitholders was made. In no event shall any adjournment or postponement of a meeting of Unitholders or the announcement thereof commence a new time period for the giving of a Nominating Unitholder’s notice as described above.

- (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 in the capital 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 (if such date shall then have been made publicly available and shall have occurred) and as of the date of such notice; and (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 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) The Trust may require any proposed nominee to furnish such other information as may reasonably be required by the Trust to determine the eligibility of such proposed nominee to serve as an independent Trustee of the Trust or that could be material to a reasonable Unitholder's understanding of the independence, or lack thereof, of such proposed nominee.
- (f) No person shall be eligible for election as a Trustee of the Trust unless nominated in accordance with the provisions of this Section 9.4; provided, however, that nothing in this Section 9.4 shall be deemed to preclude discussion by a Unitholder (as distinct from the nomination of Trustees) at a meeting of 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 chairperson of the 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.
- (g) For purposes of this Section 9.4, "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 of Electronic Document Analysis and Retrieval at www.sedar.com.
- (h) Notwithstanding the foregoing, the Board of Trustees may, in its sole discretion, waive any requirement in this Section 9.4.

9.5 Chairperson

The chairperson of any meeting shall be the Chair of the Trustees or any other Trustee specified by resolutions of the Trustees or, in the absence of any Trustee, any person appointed as chairperson of the meeting by the Unitholders present.

9.6 Quorum

A quorum for any meeting of the Unitholders, or any class of Unitholders, as the case may be, shall be individuals present in person or represented by proxy, not being less than two in number and such persons holding or representing by proxy in aggregate not less than 10% of the total number of outstanding Units or class of Units, as the case may be, provided that if the Trust has only one Unitholder, the Unitholder present in person or by proxy constitutes a meeting and a quorum for such meeting. If a quorum is present at the opening of a meeting, the Unitholders may proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting. The Chair of any meeting at which a quorum of Unitholders is present may, with the consent of the majority of the Unitholders present in person or by proxy, adjourn such meeting and no notice of any such adjournment need be given. In the event of such quorum not being present at the appointed place on the date for which the meeting is called within 30 minutes after the time fixed for the holding of such meeting, the meeting, if called by request of Unitholders, shall be cancelled and, if otherwise called, shall stand adjourned to such day being not less than 10 days later and to such place and time as may be selected by the Board. If at such adjourned meeting a quorum as above defined is not present, the Unitholders present either personally or by proxy shall form a quorum, and any business may be brought before or dealt with at such an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

9.7 Voting

Holders of Units may attend and vote at all meetings of the Unitholders either in person or by proxy. Each Unit shall entitle the holder of record thereof to one vote at all meetings of the Unitholders. Notwithstanding the foregoing, if the Board determines that the nature of the business to be transacted at a meeting affects Unitholders of one class of Units in a manner materially different from its effect on Unitholders of another class of Units, the Units of such affected Class will be voted separately as a class. Each Special Voting Unit will entitle the holder thereof to that number of votes at any meeting of Unitholders that is equal to the number of Units that may be obtained upon the exchange of the Exchangeable Security to which such Special Voting Unit is attached.

Any action to be taken by the 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. The Chair of any such meeting shall not have a second or casting vote. Every question submitted to a meeting, other than a Special Resolution, shall, unless a poll vote is demanded, be decided by a show of hands, on which every person present and entitled to vote shall be entitled to one vote.

At any such meeting, unless a poll is demanded, a declaration by the Chair that a resolution has been carried or carried unanimously or by a particular majority, or lost or not carried by a particular majority, shall be conclusive evidence of that fact. If a poll is demanded concerning the election of a chairperson or an adjournment, it shall be taken immediately upon request and, in any other case, it shall be taken at such time as the Chair may direct. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question on which the poll has been demanded.

At any meeting of Unitholders, on a show of hands every person who is present and entitled to vote, whether as a Unitholder or as a proxy, shall have one vote. At any meeting of Unitholders on a poll, each Unitholder present in person or represented by a duly appointed proxy shall have one vote for each Unit held on the applicable record date, except as otherwise set forth herein.

9.8 Approval by Ordinary Resolution

The following matters require approval by Ordinary Resolution and shall be deemed approved, consented to or confirmed, as the case may be, upon the adoption of such Ordinary Resolution:

- (a) except as provided in Sections 3.7, 3.8, 3.10 or 3.11, the appointment, election or removal of Trustees;
- (b) except as provided in Section 19.6, the appointment or removal of Auditors;
- (c) any amendment to the Declaration of Trust (except as provided in Sections 7.6, 15.1 or 15.3);
- (d) the transaction of any other business as the Trustees may determine or as may be properly brought before the meeting; or
- (e) nothing in this Section 9.8, however, shall prevent the Trustees from submitting to a vote of Unitholders any matter which they deem appropriate. Except with respect to the matters specified in Sections 9.8, 15.2, 15.3 and 17.2 or matters submitted to a vote of the Unitholders by the Trustees, no vote of the Unitholders shall in any way bind the Trustees.

9.9 Record Dates

For the purpose of determining the Unitholders who are entitled to receive notice of and vote at any meeting or any adjournment thereof or for the purpose of any other action, the Trustees may from time to time, without notice to the Unitholders, close the transfer books for such period, not exceeding 35 days, as the Trustees may determine; or without closing the transfer books the Trustees may fix a date not more than 60 days prior to the date of any meeting of the Unitholders or other action as a record date for the determination of Unitholders entitled to receive notice of and to vote at such meeting or any adjournment thereof or to be treated as Unitholders of record for purposes of such other action, and any Unitholder who was a Unitholder at the time so fixed shall be entitled to receive notice of and vote at such meeting or any adjournment thereof, even though he has since that date disposed of his Units, and no Unitholder becoming such after that date shall be entitled to receive notice of and vote at such meeting or any adjournment thereof or to be treated as a Unitholder of record for purposes of such other action. If, in the case of any meeting of Unitholders, no record date with respect to voting has been fixed by the Trustees, the record date for voting shall be 5:00 p.m. on the last business day before the meeting.

9.10 Proxies

Whenever the vote or consent of Unitholders is required or permitted under this Declaration of Trust, such vote or consent may be given either directly by the Unitholder or by a proxy in such form as the Trustees may prescribe from time to time or, in the case of a Unitholder who is a body corporate or association, by an individual authorized by the board of directors or governing body of the body corporate or association to represent it at a meeting of the Unitholders. A proxy need not be a Unitholder. The Trustees may solicit such proxies from the Unitholders or any of them in any matter requiring or permitting the 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 chairperson of the meeting at which the instrument is proposed to be used, that the instrument of proxy is invalid. Any decision of the chairperson 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 thereof.

A vote cast in accordance with any proxy shall be valid notwithstanding the death, incapacity, insolvency or bankruptcy of the Unitholder giving the proxy or the revocation of the proxy unless written notice of the death, incapacity, insolvency, bankruptcy or revocation of the proxy has been received by the chairperson of the meeting prior to the time the vote is cast.

9.11 Personal Representatives

If a Unitholder is deceased, his personal representative, upon filing with the secretary of the meeting such proof of his appointment as the secretary considers sufficient, shall be entitled to exercise the same voting rights at any meeting of Unitholders as the Unitholder would have been entitled to exercise if he were living and for the purpose of the meeting shall be considered to be a Unitholder. Subject to the provisions of the will of a deceased Unitholder, if there is more than one personal representative, the provisions of Section 8.20 relating to joint holders shall apply. When any Unit is held jointly by several persons, any one of them may vote at any meeting in person or by proxy in respect of such Unit, but if more than one of them shall be present at such meeting in person or by proxy, and such joint owners or their proxies so present disagree as to any vote to be cast, such vote purporting to be executed by or on behalf of a Unitholder shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger.

9.12 Attendance by Others

Any Trustee, officer of the Trust, officer, director or employee of the Trust's subsidiaries, representative of the auditors of the Trust or other individual approved by the Trustees may attend and speak at any meeting of Unitholders.

9.13 Conduct of Meetings

To the extent that the rules and procedures for the conduct of a meeting of Unitholders are not prescribed herein, the rules and procedures shall be such reasonable rules and procedures as are determined by the chairperson of the meeting and such rules and procedures shall be binding upon all parties participating in the meeting.

9.14 Binding Effect of Resolutions

Every resolution passed at a meeting in accordance with the provisions of this Article 9 shall be binding upon all Unitholders, whether present at or absent from the meeting. Subject to Section 9.8, no action taken by Unitholders at any meeting of Unitholders shall in any way bind the Trust or the Trustees without approval of the Trustees.

9.15 Resolution in Lieu of Meeting

A resolution signed in writing by all of the Unitholders entitled to vote on that resolution at a meeting of Unitholders is as valid as if it had been passed at a meeting of Unitholders. Notwithstanding any other provision of this Declaration of Trust, a resolution in writing executed by Unitholders holding a

proportion of the outstanding Units equal to the proportion required to vote in favour thereof at a meeting of Unitholders to approve that resolution is valid as if it had been passed at a meeting of Unitholders.

9.16 Actions by Unitholders

Any action, change, approval, decision or determination required or permitted to be taken or made by the Unitholders hereunder shall be effected by a resolution passed by the Unitholders at a duly constituted meeting (or a Special Resolution in lieu thereof) in accordance with this Article 9.

9.17 Meaning of “Special Resolution”

- (a) The expression “Special Resolution” when used in this Declaration of Trust means, subject to this Article 9, a resolution proposed to be passed as a special resolution at a meeting of Unitholders (including an adjourned meeting) duly convened for that purpose and held in accordance with the provisions of this Section 9.17 at which two or more individuals present in person or represented by proxy and holding or representing by proxy in aggregate not less than 10% of the total number of outstanding Units and passed by the affirmative votes of the holders of more than 66 $\frac{2}{3}$ % of the Units represented at the meeting and voted on a poll upon such resolution.
- (b) Votes on a Special Resolution shall always be given on a poll and no demand for a poll on a Special Resolution shall be necessary.

9.18 Meaning of “Outstanding”

Every Unit and Special Voting Unit issued, certified and delivered hereunder shall be deemed to be outstanding until it shall be 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 Certificate which has been lost, stolen, mutilated or destroyed, only one of such Unit Certificates shall be counted for the purposes of determining the number of Units outstanding; and
- (b) for the purpose of any provision of this Declaration of Trust entitling holders of outstanding Units to vote, sign consents, requisitions or other instruments or take any action under this Declaration of Trust, Units owned directly or indirectly, legally or equitably, by the Trust or any subsidiary thereof shall be disregarded, except that:
 - (i) for the purpose of determining whether the Trustees shall be protected in relying on any such vote, consent, requisition or other instrument or action only the Units which the Trustees know are so owned shall be so disregarded; and
 - (ii) Units so owned which have been pledged in good faith other than to the Trust or an affiliate thereof shall not be so disregarded if the pledgee shall establish to the satisfaction of the Trustees the pledgee’s right to vote such Units in his or her discretion free from the control of the Trust or any affiliate thereof.

ARTICLE 10
MEETINGS OF THE TRUSTEES

10.1 Trustees May Act Without Meeting

The Trustees may act with or without a meeting. Any action of the Trustees or any committee of the Trustees may be taken at a meeting by vote, or without a meeting by written consent signed by all of the Trustees or the members of the applicable committee, as the case may be.

10.2 Notice of Meeting

Meetings of the Trustees may be held from time to time upon the giving of notice by any Trustee. Regular meetings of the Trustees may be held without call or notice at a time and place fixed in accordance with the Trustees' Regulations. Notice of the time and place of any other meetings shall be mailed or otherwise verbally, by telephone or by other means of communication given not less than 48 hours before the meeting but may be waived in writing by any Trustee either before or after such meeting. Notice of a meeting of Trustees need not specify the purpose of or the business to be transacted at the meeting. If a quorum of Trustees is present, the Trustees may without notice hold a meeting immediately following a meeting of Unitholders. The attendance of a Trustee at a meeting, in person or by telephone 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.

10.3 Place of Meeting

Meetings of the Trustees may be held at any place in Canada and may not be held outside Canada. A Trustee who attends a meeting of Trustees, in person or by telephone, is deemed to have consented to the location of the meeting except when he or she attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting has not lawfully called or convened. A majority of Trustees participating in a meeting of Trustees must be present in person in Canada or participating from a location in Canada.

10.4 Chair

The chair of any meeting of the Trustees shall be the Trustee present at the meeting who holds the office of Chair of the Trustees or if such person is not present, the Lead Trustee, or if neither of such persons are present, the Trustees present shall choose one of their number to be chairperson. The Chair of the Trustees and the chairperson of any meeting of Trustees shall be a Resident.

10.5 Quorum

A quorum for all meetings of the Trustees or any committee thereof shall be a majority of the Trustees then holding office or of the Trustees on such committee, provided that a majority of the Trustees comprising the quorum must be Residents. Notwithstanding any vacancy among the number of Trustees, a quorum of Trustees may exercise all of the powers of the Trustees.

10.6 Adjourned Meeting

Any meeting of Trustees may be adjourned from time to time by the chairperson of the meeting with the consent of the meeting to a fixed time and place. Further notice of the adjourned meeting need not be given. The adjourned meeting shall be duly constituted if a quorum is present and if it is held in accordance with the terms of the adjournment. If there is not a quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated upon its adjournment.

10.7 Voting at Meetings

- (a) Questions arising at any meeting of the Trustees or of a committee of Trustees shall unless otherwise specified herein, be decided by a majority of the votes cast.
- (b) In the case of an equality of votes at any meeting of Trustees or of a committee of Trustees, the chairperson of the meeting shall not have a second or casting vote in addition to his original vote, if any. The powers of the Trustees may be exercised by resolution passed at a meeting at which a quorum is present or by resolution in writing signed by all Trustees. Resolutions in writing may be signed in counterparts each of which shall be deemed to be an original and all originals together shall be deemed to be one and the same instrument.

10.8 Meeting by Telephone

Any Trustee may participate in a meeting of the Trustees or any committee thereof by means of a conference telephone or other communication facilities by means of which all persons participating in the meeting can hear each other and a Trustee so participating shall be considered for the purposes of this Declaration of Trust to be present in person at that meeting, provided that a majority of Trustees are present in person in Canada or participating from a location in Canada.

ARTICLE 11 COMMITTEES OF TRUSTEES

11.1 General

Except as prohibited by law, 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, provided that (i) a majority of the Trustees appointed to any committee, shall be Residents, and (ii) at least half of the Trustees appointed to any committee shall be persons determined by the Trustees to be independent within the meaning of National Instrument 58-201 – *Corporate Governance Guidelines*, except for temporary periods where a sufficient number of independent Trustees are not available to form the committee and then only until such time as a new independent Trustee is appointed. 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. For greater certainty, the Trustees may delegate to any person (including, without limitation any one or more officers of the Trust) the power to execute any document or enter into any agreement on behalf of the Trust or exercise any discretion or make any amendment in relation thereto. The Trustees may grant or delegate such authority to an advisor or a committee of Trustees 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. The Trustees shall have the power to determine the term and compensation of an advisor or any other person whom they may employ or with whom they may contract. The Trustees shall have the power to grant powers of attorney as required in connection with any financing or security relating thereto.

Without in any way limiting the generality of the foregoing, the Trustees shall appoint an audit committee (the “**Audit Committee**”) to consist of at least three Trustees, all of whom shall be independent within the meaning of National Instrument 52-110 – *Audit Committees*, except for temporary periods where a sufficient number of independent Trustees are not available to form the committee until such time as a new Independent Trustee is appointed, and who shall meet any requirements imposed by applicable law for the purpose of membership on such committee.

The Audit Committee shall have the powers, rights and responsibilities as the Trustees may approve, all as set out in any written charter for such purpose approved by the Trustees.

11.2 Additional Committees

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 any powers or authority in respect of which a board of directors of a corporation governed by the *Canada Business Corporations Act* may not so delegate.

11.3 Procedure

Unless otherwise determined by the Trustees, a quorum for meetings of any committee shall be a majority of its members provided that a majority of the Trustees comprising such quorum must be Residents. Each committee shall have the power to appoint its chairperson who must be a Resident and the rules for calling, holding, conducting and adjourning meetings of the committee shall be the same as those governing meetings of the Trustees. Each member of a committee shall serve during the pleasure of the Trustees and, in any event, only so long as he or she shall be a Trustee. The Trustees may fill vacancies in a committee by appointment from among their members. Provided that a quorum is maintained, the committee may continue to exercise its powers notwithstanding any vacancy among its members.

ARTICLE 12 DISTRIBUTIONS

12.1 Distributions

The Trustees shall have full discretion respecting the timing and the amount of any distributions, including out of the capital of the Trust. The Trustees may adopt a distribution policy pursuant to which distributions will be made by the Trust to Unitholders, and the Trustees may amend or revoke such distribution policy from time to time. For any distribution by the Trust, the Trustees shall establish a distribution per Class U Unit and each Class A Unit and Class I Unit shall be entitled to a distribution calculated based on the Proportionate Class A Interest and the Proportionate Class I Interest, respectively. Subject to Section 12.6, any distribution that has been declared to be payable to Unitholders will be paid in cash.

12.2 Currency of Distributions

Distributions on the Units, including any returns of capital and the distribution of proceeds on the termination of the Trust, will be determined and declared in U.S. dollars.

The Trust will convert the U.S. dollar distribution payable on the Class A Units (including any return of capital and the distribution of proceeds on the termination of the Trust) into Canadian dollars at the spot exchange rate available to the Trust in respect of such distribution and holders of Class A Units will receive distributions in Canadian dollars.

Unless a holder of Class U Units elects to receive distributions in Canadian dollars, distributions on Class U Units will be made in U.S. dollars. A holder of Class U Units may from time to time elect to change the currency of the distributions he or she receives on all or part of the Class U Units held by such Unitholder from U.S. dollars to Canadian dollars and *vice versa* upon notice to the participant in CDS through which a Unitholder holds his or her Class U Units.

Distributions on Class I Units will be paid in U.S. dollars.

12.3 Distributions of Trust Income, Gains, Capital and Other Amounts

- (a) The Board may allocate, declare payable and/or make distributions, from time to time, out of Trust Income, Net Realized Capital Gains, the capital of the Trust or otherwise, in any year, in such amount or amounts, and on such dates and to Unitholders of record on such dates, as the Board may determine.
- (b) The Board intends to allocate, distribute and make payable to Unitholders all of the Trust Income, Net Realized Capital Gains and other applicable amounts so that the Trust will not have any liability for tax under Part I of the Tax Act in any taxation year, such that on the last day of each taxation year (whether or not such day is a Business Day) of the Trust the Board may declare the following amounts to be due and payable:
 - (i) the amount of Trust Income for such year, other than (i) any Trust Income realized by the Trust as a result of a redemption of Units pursuant to Article 13 and that are payable to redeeming Unitholders under Section 13.6, and (ii) any other Trust Income that was previously paid or made payable to Unitholders in such year; and
 - (ii) the amount of Net Realized Capital Gains for such year, other than (i) any capital gains that are realized by the Trust as a result of a redemption of Units pursuant to Article 13 and that are payable to redeeming Unitholders under Section 13.6, and (ii) any other capital gains that were previously paid or made payable to Unitholders in such year.
- (c) Any distribution made pursuant to this Section 12.3 will be payable to each Unitholder of record on the applicable record date in respect of a distribution pursuant to Section 12.3(a), or on the last day of the taxation year in the year of distribution in respect of a distribution pursuant to Section 12.3(b). Subject to Section 12.6, amounts that have been declared to be payable to Unitholders pursuant to Section 12.3(a) will be paid in cash on the payment date for the distribution determined by the Board and, subject to Section 12.6, amounts that are payable pursuant to Section 12.3(b) will be paid in cash on the last Business Day prior to December 31.
- (d) As contemplated by Section 13.6, the Board may designate as payable to redeeming Unitholders as part of the redemption price any capital gain and/or income realized by the Trust as a result of an *in specie* distribution on a redemption of Units pursuant to Article 13.

12.4 Character of Distributions, Designations and Allocation

In accordance with and to the extent permitted by the Tax Act and analogous provisions of any applicable provincial income tax legislation, the Board in each year will make designations in respect of the amounts paid or payable to Unitholders for such amounts that the Board considers to be reasonable in all of the

circumstances, including without limiting the generality of the foregoing, net capital gains realized by the Trust in the year and foreign source income of and foreign taxes paid by the Trust for the year. Distributions paid or payable to Unitholders pursuant to this Article 12 will be distributed from Trust Income, Net Realized Capital Gains, trust capital or other items in such amounts as the Board may, in its absolute discretion, determine and allocated to the Unitholders in the same proportions as distributions received by the Unitholders, subject to the discretion of the Board to adopt an allocation method which the Board considers to be more reasonable in the circumstances. For greater certainty, it is hereby declared that any distribution of Net Realized Capital Gains will include the non-taxable portion of the capital gains of the Trust that are encompassed in such distribution.

12.5 Enforceability of Right to Receive Distributions

Unless otherwise resolved by the Trustees, each Unitholder will have the legal right to enforce payment on the payment date for a distribution, except that where a distribution is declared before the end of a taxation year and paid after the taxation year, each Unitholder will have the legal right to enforce payment on the last day of the taxation year.

12.6 Method of Payment of Distributions

Where the Board determines that the Trust does not have cash in an amount sufficient to make payment of the full amount of any distribution that has been declared payable, or otherwise made payable, pursuant to this Article 12 on the due date for such payment or for any other reason cannot pay the distribution in cash, or the Board otherwise elects in respect of any such distribution at the sole and absolute discretion of the Board, the payment will be distributed to the Unitholders in the form of additional Units, or fractions of Units, if necessary or desirable, having a value equal to the difference between the amount of such distribution declared to be payable and the amount of cash that has been determined by the Board to be available for the payment of such distribution. Such additional Units will be issued based on the proportionate interest of each class and with respect to such class, *pro rata* in proportion to the number of Units held as of record by such Unitholder on such date. Such additional Units will be issued pursuant to applicable exemptions under applicable securities laws, discretionary exemptions granted by applicable securities regulatory authorities or a prospectus or similar filing. Immediately after a proportionate *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 Unit Certificate 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 consolidation.

12.7 Withholding Taxes

The Board may deduct or withhold from distributions payable to any Unitholder all amounts required by law to be withheld from such distributions. In the event of a distribution in the form of additional Units, the Board may sell Units of such Unitholder to pay such withholding taxes and to pay all of the Trustee's reasonable expenses with regard thereto and the Board shall have the power of attorney of such Unitholder to do so. Upon such sale, the affected Unitholder shall cease to be the holder of such Units.

12.8 Definitions

Unless otherwise specified or the context otherwise requires, any term in this Article 12 that is defined in the Tax Act will have for the purposes of this Article 12 the meaning that it has in the Tax Act.

12.9 Payments of Cash

Any payment of cash by the Trust to a Unitholder pursuant to this Article 12 or any other provision of this Declaration of Trust will be conclusively deemed to have been made upon mailing of a cheque in a postage pre-paid envelope, addressed to the Unitholder at the Unitholder's address appearing in the Register, unless such cheque is dishonoured upon presentment. Upon such payment, the Trust will be discharged from all liability to the Unitholder in respect of such payment; provided, however, that if such cheque is lost or destroyed then, upon the presentation of evidence satisfactory to the Board of such loss or destruction, together with such indemnity as the Board may reasonably require, the Trust will issue a replacement cheque to the Unitholder. Notwithstanding the foregoing, the Trust may, in lieu of forwarding or causing to be forwarded a cheque to a Unitholder pursuant to this Article 12, enter into an agreement with a Unitholder or with the person for whom such Unitholder is acting as nominee providing for the payment to such Unitholder of the amounts to which such Unitholder is entitled, from time to time, hereunder by electronic funds transfer or by any other method at a place or places other than the place or places specified herein as the place or places for such payment. Any payment made hereunder or in connection with this Declaration of Trust that is made pursuant to any such agreement will, notwithstanding any other provision of this Declaration of Trust, be valid and binding on the Trust and the relevant Unitholder.

12.10 Unclaimed Distributions

In the event that the Board holds any distributable amount that is unclaimed or that cannot be paid for any reason, the Board will be under no obligation to invest or reinvest the same, but will only be obliged to hold the same in a current interest-bearing account pending payment with interest earned (and less applicable taxes) to the person or persons entitled thereto. The Board will, as and when required by law, and may at any time prior to such required time, pay all or part of such distributable amount so held to the appropriate government official or agency, whose receipt shall be a good and sufficient discharge and release of the Trustee.

ARTICLE 13 REDEMPTION OF UNITS

13.1 Right of Redemption by Unitholders

Each Unitholder will 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 this Article 13.

13.2 Exercise of Redemption Right

- (a) The redemption right must be exercised by causing notice (the "**Redemption Notice**") to be given to the Trust in the manner described in this Section 13.2. Such notice will be irrevocable except with respect to any Units surrendered for redemption in respect of which the redemption proceeds are not paid by the Trust on or before the date on which such payment is due and except as otherwise provided herein.
- (b) A Unitholder who desires to exercise redemption privileges must do so by causing a CDS Participant to deliver to CDS, on behalf of the Unitholder, a Redemption Notice showing the owner's intention to redeem Units. Any expense associated with the preparation and delivery of Redemption Notices will be for the account of the Unitholder exercising the redemption privilege.

- (c) By causing a CDS Participant to deliver to CDS a notice of the Unitholder's intention to redeem Units, the Unitholder will be deemed to have irrevocably surrendered such Unitholder's Units for redemption and appointed such CDS Participant to act as the Unitholder's exclusive settlement agent with respect to the exercise of the redemption privilege and the receipt of payment in connection with the settlement of obligations arising from such exercise.
- (d) Any Redemption Notice which CDS determines to be incomplete, not in proper form or not duly executed will for all purposes be void and of no effect and the redemption privilege to which it relates will be considered for all purposes not to have been exercised thereby. A failure by a CDS Participant to exercise redemption privileges or to give effect to the settlement thereof in accordance with the owner's instructions will not give rise to any obligations or liability on the part of the Trust to the CDS Participant or the owner.

13.3 Effect of Redemption Notice

Units shall be considered to be tendered for redemption on the date (the "**Redemption Date**") that the Trust has, to the satisfaction of the Board, received the Redemption Notice and further documents or evidence the Trust may reasonably require with respect to the identity, capacity or authority of the person giving such notice. On the Redemption Date, the Unitholder of such Units shall thereafter cease to have any rights with respect to the Units tendered for redemption (other than to receive the redemption payment therefor unless the redemption payment is not made as provided for herein) including the right to receive any distributions thereon that are declared payable to the Unitholders of record on a date that is subsequent to the Redemption Date.

Subject to applicable laws, the Trust will redeem the Units specified in such Redemption Notice. Such redemption will be effective as of the Redemption Date.

13.4 Payment of Redemption Price in Cash

The redemption price per Unit (the "**Redemption Price**") payable in respect of each class of Units will differ based on the proportionate interest of each Class. Accordingly, the Redemption Price payable for each Class U Unit shall be equal to the Redemption Value and the Redemption Price payable for each Class A Unit and Class I Unit shall be equal to the Redemption Value multiplied by the Proportionate Class A Interest and Proportionate Class I Interest, respectively.

The Redemption Price will be paid to a Unitholder by way of a cash payment no later than the last day of the calendar month following the calendar quarter in which the Redemption Date occurs, provided that:

- (a) the total amount payable by the Trust by cash payment in respect of the redemption of Units for the calendar quarter in which the Redemption Date occurs will not exceed U.S.\$100,000; and
- (b) in the event that the Class U Units are listed on a stock exchange or similar market, the normal trading of the Class U Units is not suspended or halted on the Redemption Date or for more than five trading days during the 10-day trading period commencing immediately after the Redemption Date.

The Trust will convert the U.S. dollar redemption proceeds payable on the Class A Units in cash into Canadian dollars at the spot exchange rate available to the Trust in respect of such redemption proceeds and holders of Class A Units will receive redemption proceeds in Canadian dollars.

13.5 Payment of Redemption Price *in Specie*

If any of the conditions in Sections 13.4(a) and (b) above preclude the payment of the Redemption Price in cash (and the Board does not, in its sole discretion, waive such limitation in respect of all Units tendered for redemption in any particular calendar quarter), the Redemption Value shall be paid and satisfied by way of an *in specie* distribution of property of the Trust and/or unsecured subordinated notes of the Trust, as determined by the Trustees in their sole discretion.

13.6 Capital Gains and Income on *In Specie* Distribution

Where the Trust makes a distribution *in specie* on a redemption of Units pursuant to Section 13.5, the Board may designate as payable to the particular redeeming Unitholders receiving such *in specie* property portions of the amount of the value of such property (i) not exceeding the amount of any capital gain of the Trust as a result of the distribution of such property as an amount payable out of the Net Realized Capital Gains of the Trust; and (ii) not exceeding an allocable share of income in respect of such property so distributed together with any other income realized by the Trust as a result of a distribution of such property, as an amount payable out of Trust Income.

13.7 General

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

ARTICLE 14 FEES AND EXPENSES

14.1 Expenses

The Trust shall pay all expenses incurred in connection with the administration and management of the Trust and its investments out of the Trust Property, 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) fees and expenses of the Trustees;
- (d) fees payable to the Manager pursuant to the Management Agreement;
- (e) fees and expenses connected with the acquisition, disposition and ownership of real property interests or mortgage loans or other property;
- (f) insurance as considered necessary by the Trustees;
- (g) expenses in connection with payments of distributions of Units of the Trust;
- (h) expenses in connection with communications to Unitholders and the other bookkeeping and clerical work necessary in maintaining relations with Unitholders;
- (i) expenses of changing or terminating the Trust;

- (j) fees and charges of transfer agents, registrars, indenture trustees and other trustees and custodians;
- (k) 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 filings; and
- (l) 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 Trust Property.

14.2 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.

14.3 Asset Management, Leasing and Financing Fees

The Trust may pay asset management fees, leasing fees and financing fees in respect of any real property owned by it.

ARTICLE 15 AMENDMENTS TO THE DECLARATION OF TRUST

15.1 Amendments by the Trustees

Notwithstanding Section 15.3, the Trustees may, without the approval of or notice to the Unitholders, make certain amendments to the Declaration of Trust, including amendments:

- (a) removing any conflicts or other inconsistencies which may exist between any terms of the Declaration of Trust and any provisions of any law or regulation applicable to or affecting the Trust;
- (b) providing, in the opinion of the Board, additional protection for the Unitholders or to obtain, preserve or clarify the provision of desirable tax treatment to Unitholders;
- (c) making amendments which, in the opinion of the Board, are necessary or desirable in the interests of the Unitholders as a result of changes in taxation laws or accounting rules or in their interpretation or administration;
- (d) which, in the opinion of the Trustees, are necessary or desirable to remove conflicts or inconsistencies between the disclosure in the Information Circular and the Declaration of Trust;
- (e) making changes or corrections in the Declaration of Trust which are of a typographical nature or are required to cure or correct any ambiguity or defective or inconsistent provision, clerical omission, mistake or manifest error contained therein;
- (f) bringing the Declaration of Trust into conformity with applicable laws, including the rules and policies of Canadian securities regulators or with current practice within the securities or investment fund industries provided that any such amendment does not adversely affect the rights, privileges or interests of Unitholders;

- (g) maintaining, or permitting the Manager to take such steps as may be desirable or necessary to maintain, the status of the Trust as a “mutual fund trust” and a “unit trust” for the purposes of the Tax Act or to respond to amendments to the Tax Act or to the interpretation thereof;
- (h) subject to (g), removing the limitation on Non-Resident ownership of securities of the Trust; or
- (i) making amendments as are required to undertake an internal reorganization involving the sale, lease, exchange or other transfer of the Trust as a result of which the Trust has substantially the same interest, whether direct or indirect, in the Trust Property that it had prior to the reorganization and, for greater certainty, includes an amalgamation, arrangement or merger of the Trust and its affiliates with any entities provided that in the opinion of the Trustees, based on the advice of counsel, the rights of Unitholders are not materially prejudiced thereby.

but notwithstanding the foregoing, no such amendment shall modify the right to vote attached to any Unit or reduce the proportionate interest in the Trust Property or the entitlement to distributions from the Trust provided hereunder (including those provided for in Article 12 and Article 17) represented by any Unit without the consent of the Unitholders provided in accordance with Sections 15.2 and 9.7, as applicable.

15.2 Amendments by Unitholders

Subject to Section 15.3, this Declaration of Trust may be amended by the vote of a majority of the votes cast at a meeting of Unitholders called for that purpose.

15.3 Approval by Special Resolution

Subject to Section 15.1, none of the following shall occur unless the same has been duly approved by Special Resolution:

- (a) any amendment to this Section 15.3;
- (b) an exchange or reclassification of all or part of the Units;
- (c) the addition, change or removal of the rights, privileges, restrictions or conditions attached to the Units;
- (d) the sale or transfer of the assets of the Trust as an entirety or substantially as an entirety (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders);
- (e) the termination of the Trust (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders);
- (f) the combination, amalgamation or arrangement of any of the Trust or its subsidiaries with any other entity (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders); and
- (g) except as provided in Section 7.4, the amendment of the investment guidelines and operating policies of the Trust.

15.4 Internal Restructuring

Notwithstanding anything to the contrary herein contained, if at any time the Trustees so resolve to implement an internal reorganization of the assets of the Trust and/or any of the Trust's subsidiaries (including, without limitation, forming additional trusts or limited partnerships to be subsidiaries of the Trust), any such resolution or reorganization shall not require the prior approval of Unitholders provided that such reorganization is not prejudicial to Unitholders.

15.5 No Termination

No amendment to or amendment and restatement of this Declaration of Trust, whether pursuant to this Article 15 or otherwise, shall be construed as a termination of the Trust and the settlement or establishment of a new trust.

15.6 Trustees to Sign Amendment

When a vote of the Unitholders approves an amendment to this Declaration of Trust or when the Trustees may amend this Declaration of Trust alone as provided herein, then the Trustees shall sign such documents as may be necessary to effect such amendment.

15.7 Restriction on Amendments Affecting Certain Rights of Trustees

Notwithstanding anything to the contrary contained herein, no amendment or modification may be made to this Declaration of Trust which has an effect on any of a Trustee's rights, protections or obligations hereunder which is adverse to the Trustee, unless the Trustee consents thereto in writing.

ARTICLE 16 SUPPLEMENTAL INDENTURES

16.1 Provision for Supplemental Indentures for Certain Purposes

The Trustees may, without approval of or notice to the Unitholders and subject to the provisions hereof, and shall, when so directed in accordance with the provisions hereof, execute and deliver indentures or instruments supplemental hereto which thereafter shall form part hereof, for any one or more or all of the following purposes:

- (a) modifying or amending any provisions of this Declaration of Trust in the circumstances set forth in Section 15.1 where the Trustees may do so without the consent, approval or ratification of the Unitholders or any other person; and
- (b) modifying or amending any provisions of this Declaration of Trust where the modification or amendment has been approved by Ordinary Resolution, Special Resolution or, if required, with the consent of the holders of all of the Units.

ARTICLE 17 TERMINATION OF THE TRUST

17.1 Term 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 the Trustees hold any property of the Trust, and the Trustees shall have all the

powers and discretions, expressed and implied, conferred upon them by law or by this Declaration of Trust.

17.2 Termination

The Trust shall terminate at the time specified in a decision to terminate the Trust by a Special Resolution passed at a meeting of Unitholders called for that purpose.

17.3 Sale of Investments

Upon termination, the net assets of the Trust will be distributed to the holders of each class of Units based upon their proportionate interests in the Trust. The holders of Class U Units will be entitled to receive an amount determined by the Trustees as the Class U Unit distribution and the holders of Class A Units and Class I Units shall be entitled to a distribution calculated based on the Proportionate Class A Interest and the Proportionate Class I Interest, respectively. Prior to the termination date, the Board will convert the assets of the Trust to cash. After payment of the liabilities of the Trust and the establishment of reserves for the contingent liabilities of the Trust, the holder of each class of Units registered as such at the close of business on the date fixed as the termination date will be entitled to receive from the Trust the proportionate share of the value of the Trust attributable to such class of Units on the basis determined above in this Section 17.3.

17.4 Powers of the Trustees Upon Termination

After the date upon which the Trustees are required to commence to wind up the affairs of the Trust, the Trustees shall undertake no activities except for the purpose of winding-up the affairs of the Trust and protecting the Trust Property pending such winding up as hereinafter provided and, for this purpose, the Trustees shall continue to be vested with and may exercise all or any of the powers conferred upon the Trustees under this Declaration of Trust.

17.5 Distribution of Proceeds

On the termination of the Trust, the assets of the Trust shall be liquidated and the proceeds distributed in the following order:

- (a) to pay the liabilities of the Trust and to establish reserves for the contingent liabilities of the Trust; and
- (b) to redeem the Units from Unitholders, on a proportionate basis based on the proportionate interest determined in Section 17.3.

17.6 Further Notice to Unitholders

In the event that less than all of the Unitholders have surrendered their Units for cancellation within six months after the time specified in the notice referred to in Section 17.2, the Trustees shall give further notice to the remaining Unitholders to surrender their Units for cancellation and if, within one year after the further notice, all the Units shall not have been surrendered for cancellation, such remaining Units shall be deemed to be cancelled without prejudice to the rights of the holders of such Units to receive their *pro rata* share of the remaining Trust Property, and the Trustees may either take appropriate steps, or appoint an agent to take appropriate steps, to contact such Unitholders (deducting all expenses thereby incurred from the amounts to which such Unitholders are entitled as aforesaid) or, in the discretion of the Trustees, may pay such amounts into court.

17.7 Responsibility of the Trustees after Sale and Conversion

The Trustees shall be under no obligation to invest the proceeds of any sale of investments or other assets or cash forming part of the Trust Property after the date referred to in Section 17.3 and, after such sale, the sole obligation of the Trustees under this Declaration of Trust shall be to hold such proceeds or assets in trust for distribution under Section 17.5.

ARTICLE 18 LIABILITIES OF TRUSTEES AND OTHERS

18.1 Liability and Indemnification of the Trustees

The Trustees shall at all times, including, for the purposes of this Article 18, the time after they have ceased to be a Trustee, be indemnified and saved harmless out of the Trust Property from and against all liabilities, damages, losses, debts and claims whatsoever, including costs, charges and expenses in connection therewith, sustained, incurred, brought, commenced or prosecuted against them 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, 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 (whether accrued, actual, contingent or otherwise), claims, costs, charges or expenses arising out of or in connection with the presence, release, discharge or disposal of any hazardous substance or any adverse environmental conditions at, on, under or near any real property or any investigation, remediation or clean up action required to be undertaken in connection with any real property. Further, the Trustees shall not be liable to the Trust or to any Unitholder or Annuitant for any loss or damages relating to any matter regarding the Trust, including, without limitation, any loss or diminution in the value of the Trust or its assets. The foregoing provisions of this Section 18.1 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 his conduct was lawful.

18.2 Indemnification of Trustees

Each Trustee, each former Trustee, each officer of the Trust and each former officer of the Trust shall be entitled to be and shall be indemnified and reimbursed out of the Trust Property in respect of any and all taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon the Trustee or former Trustee or officer or former officer in consequence of its performance of its duties hereunder and in respect of any and all costs, charges and expenses, including amounts paid to settle an action or satisfy a judgment, reasonably incurred in respect of any civil, criminal or administrative action or proceeding to which the Trustee, former Trustee, officer or former officer is made a party by reason of being or having been a Trustee or officer of the Trust or, at the request of the Trust, a trustee or officer or any subsidiary or affiliate thereof, provided that a Trustee, former Trustee, officer or former officer shall not be indemnified out of the Trust Property in respect of unpaid taxes or other governmental charges or in respect of such costs, charges and expenses that arise out of or as a result or in the course of a breach of the standard of care, diligence and skill set out in Section 4.5. A Trustee, former Trustee, officer or former officer shall not be entitled to satisfy any right of indemnity or reimbursement granted herein, or otherwise existing under law, except out of the Trust Property, and no Unitholder or other Trustee or

officer shall be personally liable to any person with respect to any claim for such indemnity or reimbursement as aforesaid.

18.3 Contractual Obligations of the Trust

The omission of the statement described in Subsection 7.2(b)(ii) from any document or instrument shall not render the Trustees or the Unitholders liable to any person, nor shall the Trustees or the Unitholders be liable for such omission. If, the Trustees or any Unitholder shall be held liable to any person by reason of the omission of such statement from any such agreement, undertaking or obligation, such Trustee or Unitholder shall be entitled to indemnity and reimbursement out of the Trust Property to the full extent of such liability.

18.4 Liability of the Trustees

The Trustees shall not be liable to the Trust or to any 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 Trust Property 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 Subsections 18.1(a) and 18.1(b).

18.5 Reliance Upon Advice

The Trustees may rely and act upon any statement, report or opinion prepared by or any advice received from the auditors, lawyers, consultants or other professional advisors of the Trust and shall not be responsible or held liable for any loss or damage resulting from so relying or acting.

18.6 Liability of Unitholders and Others

No Unitholder or Annuitant or any officer, trustee, employee or agent of the Trust shall be held to have any personal liability as such, and no resort shall be had to his private property (including, without limitation, any property consisting of or arising from a distribution of any kind or nature by the Trust) 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 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 such satisfaction. Any written instrument creating an obligation which is or includes the granting by the Trust of a lease, sublease or mortgage or which is, in the judgment of the Trustees, a material obligation, shall contain a provision 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, the private property (including, without limitation, any property consisting of or arising from a distribution of any kind or nature by the Trust) of any of the Unitholders or Annuitant or officers, trustees employees and agents of the Trust, but the Trust Property or a specific portion thereof only shall be bound. If the Trust acquires any real property investment subject to existing contractual obligations, the Trustees shall use their reasonable efforts to have any such obligations under material agreements (including mortgages), other than leases, modified so as to achieve the aforesaid disavowal of contractual liability. Further, the Trustees shall cause the operations of the Trust to be conducted in such a way and in such jurisdictions as to avoid, as far as reasonably possible, any material risk of liability on the Unitholders or Annuitant for claims against the Trust, and shall, to the

extent which they determine to be possible and reasonable, including in the cost or premiums, to cause the Trust to carry insurance for the benefit of such persons in such amounts as they consider adequate to cover any foreseeable non-contractual or non-excluded contractual liability. 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 Sections 18.1, 18.4 and 18.5. Nothing in this Declaration will preclude the Trustees from exercising any rights granted to them under the Tax Act or any other applicable taxation legislation to withhold from amounts payable to Unitholders or otherwise recover from Unitholders any taxes that the Trustees have paid on behalf of Unitholders.

ARTICLE 19 GENERAL

19.1 Execution of Instruments

The Trustees shall have power from time to time to appoint any Trustee or Trustees or officer or officers of the Trust or any person or persons on behalf of the Trust, including the Manager, 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.

19.2 Manner of Giving Notice

- (a) Any notice or other document required or permitted by the provisions of this Declaration of Trust to be given to a Unitholder, a Trustee or the Auditors shall be deemed conclusively to have been given if given either by delivery or by prepaid first-class mail addressed to the Unitholder at the address shown in the Register, to a Trustee at the last address provided by such Trustee to the President of the Trust, or to the Auditors of the Trust at the last address provided by the Auditors to the Trustees, as the case may be provided that if there is a general discontinuance of postal service due to strike, lockout or otherwise, such notice may be given by publication twice in the Report on Business section of the National Edition of The Globe and Mail or similar section of any other newspaper having national circulation in Canada provided further that if there is no newspaper having national circulation, then by publishing twice in the business section of a newspaper in each city where the register or a branch register is maintained. Any notice so given shall be deemed to have been given on the day following that on which the letter or circular was posted or, in the case of notice being given by publication, after publishing such notice twice in the designated newspaper or newspapers. In proving notice was posted, it shall be sufficient to prove that such letter or circular was properly addressed, stamped and posted.
- (b) Any written notice or written communication given to the Trustees shall be addressed to the Trustees at the head office of the Trust, and shall be deemed to have been given on the date of delivery or date sent by facsimile or other means of prepaid, transmitted or recorded communications or, if mailed, five days from the date of mailing. If any such notice or communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities, such notice or communication shall be deemed to have been received 48 hours after 12:01 a.m. on the day following the resumption of normal mail service, provided that during the period that regular mail service shall be interrupted any notice or other communication shall be given by personal delivery or by facsimile or other means of prepaid, transmitted or recorded communication.

19.3 Failure to Give Notice

The failure by the Trustees, by accident or omission or otherwise unintentionally, to give any Unitholder, any Trustee or the Auditors 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 for any such failure.

19.4 Joint Holders

Service of a notice or document on any one of several joint holders of Units shall be deemed effective service on the other joint holders.

19.5 Service of Notice

Any notice or document sent by post to or left at the address of a Unitholder pursuant to this Article 19 shall, notwithstanding the death or bankruptcy of such Unitholder, and whether or not the Trustees have notice of such death or bankruptcy, be deemed to have been fully served and such service shall be deemed sufficient service on all persons having an interest in the Units concerned.

19.6 Trust Auditors

The Auditors shall be appointed by either the Trustees or, at each annual meeting, the Unitholders. If at any time a vacancy occurs in the position of auditors of the Trust, the Trustees or Unitholders may appoint a firm of chartered accountants qualified to practice in all provinces of Canada to act as the Auditors. The Auditors shall report to the Trustees and the 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.

19.7 Fiscal Year

The Fiscal Year of the Trust shall end on December 31 in each year.

19.8 Reports to Unitholders

The Trust will furnish to Unitholders such financial statements (including quarterly and annual financial statements) and other reports as are from time to time required by this Declaration of Trust and by applicable law.

Prior to a meeting of Unitholders, the Trustees will provide the Unitholders (along with notice of such meeting) information required by applicable tax laws and securities laws.

19.9 Trust Property to be Kept Separate

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

19.10 Electronic Documents

Any requirement under this Declaration of Trust, the *Securities Act* (Ontario) 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. For certainty, notwithstanding any other provision of this Declaration of Trust, the Trust shall be permitted to utilize the “notice and access”

delivery procedures set out in National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*.

19.11 Trustees May hold Units

Any Trustee or associate of a Trustee may be a Unitholder or may be an Annuitant, and may be required to hold Units as the Board may determine from time to time.

19.12 Trust Records

The Trustees shall prepare and maintain, at the Trust's principal office or at any other place in Canada designated by the Trustees, records containing (i) the Declaration of Trust; and (ii) minutes of meetings and, resolutions of Unitholders. 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.

19.13 Right to Inspect Documents

A Unitholder and any agent, consultant or creditor of the Trust shall have the right to examine the Declaration of Trust, the Trustees' Regulations, the minutes of meetings and resolutions of Unitholders, 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 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, 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 replaced or amended from time to time.

19.14 Taxation Information

On or before March 31 in each year, or such earlier day as is required by applicable legislation or regulation, the Trust will provide to Unitholders who received distributions from the Trust in the prior calendar year, such information required by Canadian law to be submitted to Unitholders for income tax purposes to enable Unitholders to complete their tax returns in respect of such distributions. In particular, each Unitholder shall be informed each year of the composition of the amounts payable by the Trust to such Unitholder in terms of net income, taxable dividends, net taxable gains, foreign source income and return of capital, and will be informed of the portion of such net income that has been designated as taxable dividends on shares of taxable Canadian corporations and taxable capital gains and of the amount of any foreign taxes paid by the Trust in respect of which the Unitholder may claim a credit for tax purposes to the extent permitted by the Tax Act, where those items are applicable.

19.15 Consolidations

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

19.16 Counterparts

This Declaration of Trust may be executed in several counterparts, by facsimile or electronic PDF format 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.

19.17 Severability

The provisions of this Declaration of Trust are severable. If any provision of this Declaration of Trust shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction or any other provision of this Declaration of Trust in any jurisdiction.

19.18 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, interpretation or effect of this Declaration of Trust.

19.19 Governing Law

This Declaration of Trust and the Unit Certificates shall be interpreted and governed by and take effect exclusively in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract. 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 shall be deemed to hereby irrevocably attorn, to the exclusive jurisdiction of the courts of such province.

19.20 Transition

Notwithstanding any other provision hereof, if otherwise applicable, the approval of a majority of the independent Trustees shall not be required, and the provisions of Section 4.13 shall not be operative or effective with respect to the entering into of any Material Agreement, transaction or arrangement or proposed Material Agreement, transaction or arrangement disclosed in the Information Circular.

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IN WITNESS WHEREOF the Trustees have caused these presents to be signed as of the date first above written.

“Samuel Altman”
Samuel Altman, Trustee

“Colum Bastable”
Colum Bastable, Trustee

“Patrick Flatley”
Patrick Flatley, Trustee

“Peter Tesché”
Peter Tesché, Trustee

“Blair Welch”
Blair Welch, Trustee

“Brady Welch”
Brady Welch, Trustee

SCHEDULE A
SLATE RETAIL REIT
TRUSTEES' REGULATIONS

INTERPRETATION

1. **Interpretation.** In these Trustees' Regulations, unless the context otherwise specifies or requires:
 - (a) all terms used in these Trustees' Regulations not otherwise defined herein shall have the meanings given to such terms in the Declaration of Trust;
 - (b) words importing the singular number only shall include the plural and vice versa and words importing a specific gender shall include the other gender; and
 - (c) the headings used in these Trustees' Regulations are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions.

MEETINGS OF TRUSTEES

2. **Place and Time of Meeting.** All meetings of the Trustees called by the giving of notice shall be held at a place in Canada and, unless consented to in writing by a majority of the Trustees, on a business day which place and time shall be specified in the notice.
3. **Notice.** The notice of any meeting need not specify the purpose of or the business to be transacted at the meeting.
4. **Adjournment.** Any meeting of Trustees may be adjourned from time to time by the chairperson of the meeting, with the consent of the meeting, to a fixed time and place. Notice of any adjourned meeting of Trustees is not required to be given if the time and place of the adjourned meeting is announced at the original meeting, but notice of the adjourned meeting shall be given to the Trustees not present at such original meeting by delivering (not mailing) the same not less than one day (exclusive of the day on which the notice is delivered but inclusive of the day for which notice is given) before the adjourned meeting. Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat. The Trustees who formed a quorum at the original meeting are not required to form the quorum at the adjourned meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment. Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.
5. **Minutes of Meetings.** The Chairperson shall appoint a secretary to act as secretary of each meeting of the Trustees and of the Unitholders. Written records and minutes of all meetings of Trustees shall be maintained by the secretary of each meeting and shall be placed in the minute book of the Trust. Any written records and minutes of meetings of any committee of Trustees shall be maintained by the secretary of such meeting may but need not be placed in the minute book of the Trust. There shall be inserted or entered into the records and minutes of the meetings of Trustees all written disclosures or requests made to have entered into the minutes of the

meeting, of the nature and extent of a Person's interest in a material agreement or transaction or proposed material agreement or transaction with the Trust made pursuant to Section 4.13 of the Declaration of Trust.

FOR THE PROTECTION OF TRUSTEES AND OFFICERS

6. **For the Protection of Trustees and Officers.** The provisions of the Declaration of Trust pertaining to the liability and indemnification of Trustees shall apply *mutatis mutandis* to the officers of the Trust or Persons who act or acted at the Trust's request as a director or officer of a body corporate of which the Trust is or was a shareholder or creditor, and his heirs and legal representatives.

The Trust shall also indemnify any such Person in such other circumstances as the Declaration of Trust or law permits, subject to the Declaration of Trust, or requires. Nothing in these Trustees' Regulations shall limit the right of any Person entitled to indemnity to claim indemnity apart from the provisions of these Trustees' Regulations to the extent permitted by the Declaration of Trust or law.

OFFICERS

7. **Appointment and Removal.** The Trustees may pursuant to the provisions of the Declaration of Trust, appoint the officers of the Trust who may or may not be Trustees. Notwithstanding the foregoing, each incumbent officer of the Trust shall continue in office until the earliest of (a) his resignation, which resignation shall be effective at the time a written resignation is received by the Trust upon 30 days' written notice or at the time specified in the resignation, whichever is later, (b) the appointment of his successor, (c) his removal, and (d) his death. The Trustees may from time to time and subject to the provisions of the Declaration of Trust, prescribe, vary, add to or limit the duties and powers of any officer.

All officers, in the absence of agreement to the contrary, shall be subject to removal by resolution of the Trustees at any time, with or without cause.

8. **Chairperson.** The Chairperson of Trustees shall be appointed from among the Trustees provided that the chairperson of the Trustees shall be a non-executive appointment. When present, the Chairperson shall preside as chair at all meetings of the Trustees and at all meetings of the Unitholders, unless a Trustee who is not the Chairperson is selected to do so by the Trustees in accordance with Section 9.5 of the Declaration of Trust.
9. **Powers and Duties.** Subject to the provisions of the Declaration of Trust, all officers of the Trust shall sign such contracts, documents or instruments in writing as require their respective signatures and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the Trustees.
10. **Duties May be Delegated.** Subject to the provisions of the Declaration of Trust, in case of the absence or inability to act of any officer of the Trust or for any other reason that the Trustees may deem sufficient, the Trustees may delegate all or any of the powers of such officer to any other officer or to any Trustee for the time being.
11. **Vacancies.** If the office of any officer of the Trust shall be or become vacant by reason of death, resignation, incapacity, removal or otherwise, the Trustees may appoint a Person to fill such vacancy.

UNITHOLDERS' MEETINGS

12. **Place and Time of Meetings.** Each meeting of the Unitholders shall be held at a place in Canada on a Business Day which place and time shall be specified in the notice calling the meeting.
13. **Notice.** A printed, written or typewritten notice stating the day, hour and place of any meeting of the Unitholders as well as the purpose shall be given by serving such notice on each Unitholder entitled to vote at such meeting, on each Trustee and on the auditor of the Trust in the manner provided for in the Declaration of Trust and in these Trustees' Regulations. A meeting of the Unitholders may be held for any purpose on any day and at any time without notice if all of the Unitholders and all other Persons entitled to attend such meeting are present in Person or, where appropriate, represented by proxy at the meeting (except where a Unitholder or other Person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called) or if all of the Unitholders and all other Persons entitled to attend such meeting who are not present in Person or, where appropriate, represented by proxy thereat waive notice before or after the date of such meeting.
14. **Waiver of Notice.** A Unitholder and any other Person entitled to attend a meeting of the Unitholders may in any manner waive notice of a meeting of the Unitholders and attendance of any such Person at a meeting of the Unitholders shall constitute a waiver of notice of the meeting except where such Person attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
15. **Votes.** Every question submitted to any meeting of the Unitholders, other than in respect of a Special Resolution, shall be decided in the first instance by a show of hands unless a Person entitled to vote at the meeting has demanded a ballot.

A ballot may be demanded either before or after any vote by show of hands by any Person entitled to vote at the meeting. If at any meeting a ballot is demanded on the election of a chairperson or on the question of adjournment it shall be taken immediately upon request and, in any other case, it shall be taken at such time as the chairperson may direct. If at any meeting a ballot is demanded on any other question or as to the election of Trustees, the vote shall be taken by ballot in such manner and either at once, later in the meeting or after adjournment as the chairperson of the meeting directs. The result of a ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded. A demand for a ballot may be withdrawn.

Where two or more Persons hold the same Unit or Units jointly, one of those holders present at a meeting of the Unitholders may, in the absence of the other or others, vote the Unit or Units but if two or more of those Persons who are present, in Person or by proxy vote, they shall vote as one on the Unit or Units jointly held by them.

At any meeting of the Unitholders unless a ballot is demanded, a declaration by the chairperson of the meeting that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact.

16. **Proxies.** At every meeting at which he is entitled to vote, every Unitholder and/or Person appointed by proxy and/or individual so authorized to represent a Unitholder who is present in Person shall have one vote on a show of hands. Upon a ballot at which he is entitled to vote, every Unitholder present in Person or represented by proxy or by an individual so authorized shall (subject to the provisions, if any, of the Declaration of Trust) have one vote for every Unit held by him.

A proxy shall be executed by the Unitholder or his attorney authorized in writing or, if the Unitholder is a body corporate or association, by an officer or attorney thereof duly authorized. If the Units are publicly traded, a proxy appointing a proxyholder ceases to be valid one year from its date.

A proxy may be in the following form:

The undersigned Unitholder of Slate Retail REIT hereby appoints _____ of _____ or falling him, _____ as the nominee of the undersigned to attend and act for the undersigned and on behalf of the undersigned at the said meeting of the Unitholders of the said Trust to be held on the day of and at any adjournment thereof in the same manner, to the same extent and with the same power as if the undersigned were present at the said meeting or such adjournment thereof. This proxy is [not] solicited by or on behalf of management of the Trust.

DATED this day of

Signature of Unitholder

The Trustees may from time to time institute procedures regarding the lodging of proxies at some place or places other than the place at which a meeting or adjourned meeting of the Unitholders is to be held and for particulars of such proxies to be sent by electronic means or in writing before the meeting or adjourned meeting to the Trust or any agent of the Trust for the purpose of receiving such particulars and providing that proxies so lodged may be voted upon as though the proxies themselves were produced at the meeting or adjourned meeting and votes given in accordance with such procedures shall be valid and shall be counted. The chairperson of any meeting of the Unitholders may, in his discretion, accept electronic or written communication as to the authority of any Person claiming to vote on behalf of and to represent a Unitholder notwithstanding that no proxy conferring such authority has been lodged with the Trust, and any votes given in accordance with such electronic or written communication accepted by the chairperson of the meeting shall be valid and shall be counted.

17. **Adjournment.** The chairperson of any meeting of the Unitholders may with the consent of the majority of the meeting adjourn the same from time to time to another Business Day at a fixed time and place and no notice of such adjournment need be given, with the exception of a meeting adjourned for a lack of quorum pursuant to Section 9.6 of the Declaration of Trust, to the Unitholders. Any business may be brought before or dealt with at any adjourned meeting for which no notice is required which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat. The Persons who formed a quorum at the original meeting are not required to form the quorum at the adjourned meeting. If there is no quorum present at the adjourned meeting the original meeting shall be deemed to have terminated forthwith after its adjournment.

18. **Quorum.** No business shall be transacted at any meeting of the Unitholders unless the requisite quorum be present at the time of the transaction of such business. If a quorum is not present at the time appointed for a meeting of the Unitholders or within 30 minutes thereafter, the Persons present and entitled to vote may adjourn the meeting to another business day not less than 10 days

later at a fixed time and place as selected by the Board, but may not transact any other business and the provisions of paragraph 17 with regard to notice shall apply to such adjournment.

19. **Minutes of Meetings.** Written records and minutes of each meeting of the Unitholders shall be maintained by the secretary of each meeting and shall be placed in the minute book of the Trust.

CERTIFICATES

20. **Certificates.** Certificates representing Units shall be signed by at least one Trustee or officer of the Trust holding office at the time of signing and unless otherwise decided by the Trustees, by or on behalf of a registrar, transfer agent, branch transfer agent or issuing or other authenticating agent of the Trust and any signatures required on a certificate representing Units may be printed or otherwise mechanically reproduced thereon.

A certificate representing Units containing the signature of a Person which is printed, engraved, lithographed or otherwise mechanically reproduced thereon may be issued notwithstanding that the Person has ceased to be a Trustee or an officer, as the case may be, of the Trust and shall be as valid as if he were a Trustee or an officer, as the case may be, at the date of its issue.

TRANSFER OF UNITS

21. **Register.** The Register shall be kept as provided for in the Declaration of Trust at the principal office of the Trust and/or the Transfer Agent.

VOTING SHARES AND SECURITIES IN BODIES CORPORATE

22. **Voting Shares and Securities in Bodies Corporate.** All of the shares or other securities carrying voting rights of any body corporate held from time to time by the Trust may be voted at any and all meetings of shareholders or holders of other securities (as the case may be) of such body corporate and in such manner and by such Person or Persons as the Trustees shall from time to time determine. The duly authorized signing officers of the Trust may also from time to time execute and deliver for and on behalf of the Trust proxies and/or arrange for the issuance of voting certificates and/or other evidence of the right to vote in such names as they may determine without the necessity of a resolution or other action by the Trustees.

NOTICES

23. **Service.** If a notice or document is sent to a Unitholder by prepaid first-class mail in accordance with the provisions of the Declaration of Trust and the notice or document is returned on three consecutive occasions because the Unitholder cannot be found, it shall not be necessary to send any further notices or documents to the Unitholder until he informs the Trust in writing of his new address.
24. **Units Registered in More Than One Name.** All notices or other documents with respect to any Units registered in more than one name shall be given to whichever of such Persons is named first in the records of the Trust and any notice or other document so given shall be sufficiently given to all of the holders of such Units.
25. **Deceased Unitholders.** Any notice or other document delivered or sent in a manner contemplated in the Declaration of Trust to the address of any Unitholder as the same appears in the records of the Trust shall, notwithstanding that such Unitholder be then deceased, and whether or not the Trust has notice of his death, be deemed to have been duly served in respect of the Units held by

such Unitholder (whether held solely or with any other Person or Persons) until some other Person be entered in his stead in the records of the Trust as the holder or one of the holders thereof and such service shall for all purposes be deemed a sufficient service of such notice or document on his heirs, executors or administrators and on all Persons, if any, interested through him or with him in such Units.

26. **Signature to Notices.** The signature of any Trustee or officer of the Trust to any notice or document to be given by the Trust may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed.
27. **Computation of Time.** Where a given number of days' notice or notice extending over a period is required to be given under any provisions of the Declaration of Trust or these Trustees' Regulations, the day of service or posting of the notice or document shall not, unless it is otherwise provided, be counted in such number of days or other period, but the day of receipt of the notice or document shall, unless it is otherwise provided, be counted in such number of days or other period.
28. **Proof of Service.** With respect to every notice or other document sent by post it shall be sufficient to prove that the envelope or wrapper containing the notice or other document was properly addressed as provided in the Declaration of Trust and in these Trustees' Regulations and put into a post office or into a letter box. A certificate of an officer of the Trust in office at the time of the making of the certificate or of a transfer officer of any transfer agent or branch transfer agent of Units of the Trust as to facts in relation to the sending or delivery of any notice or other document to any Unitholder, Trustee, officer or auditor of the Trust or publication of any notice or other document shall be conclusive evidence thereof and shall be binding on every Unitholder, Trustee, officer or auditor of the Trust, as the case may be.

CHEQUES, DRAFTS AND NOTES

29. **Cheques, Drafts and Notes.** All cheques, drafts or orders for the payment of money and all notes and acceptances and bills of exchange shall be signed by such officer or officers of the Trust or Person or Persons, whether or not officers of the Trust, and in such manner as the Trustees may from time to time designate.

CUSTODY OF SECURITIES

30. **Custody of Securities.** All shares and other securities owned by the Trust shall be lodged (in the name of the Trust) with a chartered bank or a trust company, in a safety deposit box or with a law firm acting on behalf of the Trust or, if so authorized by resolution of the Trustees, with such other depositories or in such other manner as may be determined from time to time by the Trustees.

All shares and other securities belonging to the Trust may be issued, or held in the name of a nominee or nominees of the Trust (and if issued or held in the names of more than one nominee shall be held in the names of the nominees jointly with right of survivorship) and any shares or other securities so issued or held shall be endorsed in blank with endorsement guaranteed in order to enable transfer to be completed and registration to be effected.

EXECUTION OF INSTRUMENTS

31. **Execution of Instruments.** All contracts, documents or instruments in writing requiring the signature of the Trust may be signed by any officer or Trustee of the Trust and all contracts,

documents and instruments in writing so signed shall be binding upon the Trust without any further authorization or formality. The Trustees shall have power from time to time to appoint any officer or officers, or any Person or Persons, on behalf of the Trust either to sign contracts, documents and instruments in writing generally or to sign specific contracts, documents or instruments in writing.

The term “contracts, documents or instruments in writing” as used in these Trustees’ Regulations shall include (without limitation) security certificates, deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property real or personal, immovable or movable, agreements, releases, receipts and discharges for the payment of money or other obligations and conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures or other securities and all paper writings.

Without limiting the foregoing, any officer or Trustee of the trust shall have authority to sell, assign, transfer, exchange, convert or convey any and all shares, stocks, bonds, debentures, rights, warrants or other securities owned by or registered in the name of the Trust and to sign and execute all assignments, transfers, conveyances, powers of attorney and other instruments that may be necessary for the purpose of selling, assigning, transferring, exchanging, converting or conveying any such shares, stocks, bonds, debentures, rights, warrants or other securities.

The signature or signatures of the officers and Trustees of the Trust and/or of any other Person or Persons appointed as aforesaid by the Trustees may, if specifically authorized by the Trustees, be printed, engraved, lithographed or otherwise mechanically reproduced upon any contracts, documents or instruments in writing or bonds, debentures or other securities of the Trust executed or issued by or on behalf of the Trust and all contracts, documents or instruments in writing or bonds, debentures or other securities of the Trust on which the signature or signatures of any one or more of the foregoing officers or Trustees or the officers or Persons authorized as aforesaid shall be so reproduced pursuant to such authorization by the Trustees shall be deemed to have been manually signed by each such officer, Trustee or Person whose signature is so reproduced and shall be as valid to all intents and purposes as if they had been signed manually and notwithstanding that any such officer, Trustee or Person whose signature is so reproduced may have ceased to hold office at the date of the delivery or issue of such contracts, documents or instruments in writing or bonds, debentures or other securities of the Trust.

INCONSISTENCIES WITH DECLARATION OF TRUST OF TRUST

32. **Inconsistencies.** In the event of any conflict or inconsistency between these Trustees’ Regulations and the provisions of the Declaration of Trust, as amended, restated or amended and restated from time to time, the provisions hereof shall be ineffective and shall be superseded by the provisions of such Declaration of Trust to the extent necessary to resolve such conflict or inconsistency.

SCHEDULE B

FORM OF NOTICE OF CONVERSION

TO: Slate Retail REIT (the “Trust”)
200 Front Street West
Suite 2400
Toronto, Ontario
M5V 3K2

Attention: General Counsel

TO: Equity Financial Trust Company
200 University Avenue, Suite 400
Toronto, Ontario
M5H 4H1

Attention: Manager Corporate Trust

Note: All capitalized terms used herein have the meaning ascribed thereto in the Declaration of Trust defined below, unless otherwise indicated.

The undersigned registered holder of Class A Units and/or Class I Units of Slate Retail REIT hereby irrevocably elects to convert _____ Class A Units or Class I Units [***check applicable class of Units**] (the “**Converted Units**”) in accordance with the terms of the second amended and restated declaration of trust of the REIT dated April 15, 2014, as amended from time to time (the “**Declaration of Trust**”), and, where the undersigned holds certificates representing such Units, tenders herewith the Converted Units, and directs that the Class U Units of the REIT issuable upon a conversion (net of applicable withholding taxes, if any) be issued and delivered in accordance with the CDS Participant Information set out below.

Dated: _____

(Signature of Registered Unitholder)

The Class U Units will be issued in registered form to CDS Clearing and Depository Services Inc. (“**CDS**”) or its nominee. Unitholders must provide the information below for the CDS participant account to which the Class U Units are to be credited.

Name of Participant: _____

Participant Address: _____

(City, Province and Postal Code)

CUID: _____

Participant Contact Name and Title: _____

Contact Phone and Email: _____