CHARTWELL SENIORS HOUSING REAL ESTATE INVESTMENT TRUST

NINTH
AMENDED AND RESTATED
DECLARATION OF TRUST

APRIL 30, 2012

TABLE OF CONTENTS

Page

ARTICLE 1

INTERPRETATION 2

1.1 Definitions 2

1.2 References to Acts Performed by the Trust 9

1.3 Tax Act 9

1.4 Number and Gender 9

1.5 Headings for Reference Only 9

1.6 Day Not a Business Day 10

1.7 Time of the Essence 10

1.8 Governing Law 10

1.9 Currency 10

ARTICLE 2

DECLARATION OF TRUST 10

2.1 Establishment of the Trust 10

2.2 Initial Contributions 10

2.3 Name of the Trust 11

2.4 Head Office 11

2.5 Nature of the Trust 11

2.6 Rights of Unitholders 12

2.7 Liability of Unitholders 12

ARTICLE 3

ISSUE AND SALE OF UNITS 13

3.1 Nature of Trust Units and Special Voting Units 13

3.2 Authorized Number of Trust Units 15

3.3 Units Non-Assessable 15

3.4 Fractional Units 15

3.5 Allotment and Issue 15

3.6 Rights, Warrants, Options, Convertible Indebtedness and Other Securities 16

3.7 Commissions and Discounts 16

3.8 Transferability 16

3.9 Transfer of Trust Units 16

3.10 Successors in Interest to Unitholders 17

3.11 Trust Units Held Jointly or in Fiduciary Capacity 17

3.12 Performance of Trusts 18

3.13 Death of Unitholders 18

3.14 Unclaimed Distributions 18

3.15 Repurchase of Trust Units 18

3.16 Re Purchase of Initial Trust Units by the Trust 19

3.17 Consolidation of Trust Units 19

3.18 No Pre Emptive Rights 19

TABLE OF CONTENTS
(continued)

Page

ARTICLE 4
INVESTMENTS AND OPERATIONS OF THE TRUST 19
4.1 Investment Restrictions 19
4.2 Operating Policies 22
4.3 Mutual Fund Trust Status and Registered Investment 26
4.4 Application of Investment Restrictions and Operating Guidelines 26
4.5 Regulatory Matters 26

ARTICLE 5
DISTRIBUTIONS 26
5.1 Determination of Amounts to be Distributed 26
5.2 Distributions Payable 27
5.3 Distribution on Special Voting Units 27
5.4 Other Distributions 27
5.5 Payment of Distributions 28
5.6 Withholding Taxes 29
5.7 Reinvestment 29
5.8 Income Tax Matters 29
5.9 Allocations of Net Income of the Trust and Net Realized Capital Gains for Tax Purposes 29
5.10 Definitions 30

ARTICLE 6
REDEMPTION OF TRUST UNITS 30
6.1 Right of Redemption 30
6.2 Exercise of Redemption Right 30
6.3 Cash Redemption 31
6.4 No Cash Redemption in Certain Circumstances 32
6.5 In Specie Redemption 32

ARTICLE 7
REDEMPTION OF SPECIAL VOTING UNITS 33
7.1 Redemption 33

ARTICLE 8
TRUSTEES 34
8.1 Number of Trustees 34
8.2 Calling and Notice of Meetings 34
8.3 Place of Meetings 34
8.4 Meetings by Telephone 34
8.5 Quorum 35
8.6 Chairman 35
8.7 Action by the Trustees 35
8.8 Adjourned Meeting 35

TABLE OF CONTENTS
(continued)

Page

8.9 Remuneration and Expenses 35
8.10 Officers 36
8.11 Residency of Trustees 36
8.12 Independent Trustees 36

ARTICLE 9
APPOINTMENT, RESIGNATION AND REMOVAL OF THE TRUSTEES 36
9.1 Qualification of Trustees 36
9.2 Appointment of Trustees 37
9.3 Consent to Act 37
9.4 Failure to Elect Minimum Number of Trustees 38
9.5 Ceasing to Hold Office 38
9.6 Removal of Trustees 39
9.7 Filling Vacancies 40
9.8 Validity of Acts 40

ARTICLE 10
CONCERNING THE TRUSTEES 40
10.1 Powers of the Trustees 40
10.2 Specific Powers and Authorities 41
10.3 Further Powers of the Trustees 45
10.4 Limitations on Powers 46
10.5 Banking 46
10.6 Standard of Care and Duties 46
10.7 Reliance Upon Trustees and Officers 47
10.8 Fees and Expenses 47
10.9 Determinations of Trustees Binding 47
10.10 Limitations on Liability of Trustees 47
10.11 Indemnification of Trustees 58
10.12 Contractual Obligations of the Trust 49
10.13 Conflicts of Interest 49
10.14 Conditions Precedent 51

ARTICLE 11
COMMITTEES OF TRUSTEES 52
11.1 Delegation 52
11.2 Audit Committee 52
11.3 Procedure 52

ARTICLE 12
AMENDMENT 52
12.1 Amendment 52
12.2 Two-Thirds Unitholder Vote 54

TABLE OF CONTENTS
(continued)

Page

12.3 Special Resolution Vote 54
12.4 Variation of Rights 55
12.5 Changes to Other Documents 55
12.6 No Termination 55

ARTICLE 13
MEETINGS OF UNITHOLDERS 55
13.1 Annual and Special Meetings of Unitholders 55
13.2 Notice of Meetings 56
13.3 Quorum 56
13.4 Voting Rights of Unitholders 56
13.5 Certain Matters on which Unitholders must Vote 57
13.6 Meaning of "Special Resolution" 57
13.7 Meaning of "Outstanding" 58
13.8 Record Date for Voting 59
13.9 Proxies 59
13.10 Personal Representatives 60
13.11 Appointment of Inspector 60
13.12 Conduct of Meetings 60
13.13 Binding Effect of Resolutions 60
13.14 Resolution in Lieu of Meeting 60
13.15 Actions by Unitholders 60

ARTICLE 14
CERTIFICATES, REGISTRATION AND TRANSFER OF UNITS 61
14.1 No Alteration 61
14.2 Unit Certificates 62
14.3 Contents of Unit Certificates 63
14.4 Register of Unitholders 64
14.5 Limitation of Non Resident Ownership 64
14.6 Restrictions on Ownership by Certain Parties 66
14.7 Lost Certificates 72
14.8 Take Over Bid 72

ARTICLE 15
TERMINATION 75
15.1 Term of the Trust 75
15.2 Termination with the Approval of Unitholders 75
15.3 Procedure Upon Termination 76
15.4 Powers of the Trustees Upon Termination 76
15.5 Sale of Investments 76
15.6 Distribution of Proceeds or Assets 76
15.7 Further Notice to Unitholders 76

TABLE OF CONTENTS
(continued)

Page

15.8 Responsibility of the Trustees after Sale and Conversion 77

ARTICLE 16
SUPPLEMENTAL INDENTURES 77
16.1 Provision for Supplemental Indentures for Certain Purposes 77

ARTICLE 17
GENERAL 77
17.1 Notices 77
17.2 Failure to Give Notice 78
17.3 Joint Holders 78
17.4 Service of Notice 78
17.5 Information Available to Unitholders 78
17.6 Fiscal Year and Taxation Year 79
17.7 Financial Disclosure 79
17.8 Unitholder Meeting Information 79
17.9 Taxation Information 79
17.10 Power of Attorney 80
17.11 Trust Property to be Kept Separate 80
17.12 Trust Records 80
17.13 Income Tax Election 80
17.14 Consolidations 80

ARTICLE 18
AUDITORS 80
18.1 Qualification of Auditors 80
18.2 Appointment of Auditors 81
18.3 Change of Auditors 81
18.4 Report of Auditors 81

ARTICLE 19
MISCELLANEOUS 81
19.1 Counterparts 81
19.2 Severability 81
19.3 Language 81

CHARTWELL SENIORS HOUSING REAL ESTATE INVESTMENT TRUST

NINTH AMENDED AND RESTATED DECLARATION OF TRUST

THIS DECLARATION OF TRUST is made as of July 7, 2003, as amended and restated on November 14, 2003, as amended and restated on July 1, 2005, as amended and restated on November 6, 2006, as amended and restated as of November 19, 2007, as amended and restated on July 14, 2008, as amended and restated on May 21, 2009, as amended and restated on May 20, 2010, as amended and restated on May 19, 2011, and as further amended and restated on April 30, 2012.

RECITALS

WHEREAS the Trust was established for the principal purpose of investing, indirectly, in a portfolio of income-producing seniors housing facilities and projects and in seniors housing operations and development management businesses, in Canada;

AND WHEREAS on July 7th, 2003 one Trust Unit was issued to Richard Noonan (the **"Initial Unitholder"**) in consideration for $10.00 in the lawful money of Canada as sole Unitholder and on October 28, 2003, 99 Trust Units were issued to the Initial Unitholder in consideration for an additional contribution of $990.00 in the lawful money of Canada;

AND WHEREAS Stephen A. Suske was appointed the trustee (the **"Initial Trustee"**) of the Trust by written instrument of the Initial Unitholder;

AND WHEREAS it is intended that Trust Units be offered for sale to members of the public in each of the provinces of Canada pursuant to the Prospectus;

AND WHEREAS the Initial Unitholder and the Initial Trustee desire that the Trust shall qualify as a "mutual fund trust" pursuant to subsection 132(6) of the Tax Act;

AND WHEREAS the Trustees wish to amend and restate this Declaration of Trust in the manner herein provided and have received the approval of the Unitholders to do so;

AND WHEREAS, for greater certainty, the restatement of this Declaration of Trust shall not be deemed to constitute a termination of the Trust or a resettlement of this Declaration of Trust or the Trust created hereby.

DECLARATION

NOW THEREFORE, the undersigned, being the Trustees, hereby confirm and declare that they agree to hold in trust as trustees the Initial Contributions 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 expressed provisions of this Declaration of Trust, to wit:

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Declaration of Trust including the recitals hereto, unless the context otherwise requires, the following terms shall have the following meanings:

(a) **"Adjusted Gross Book Value"** means, at any time, the consolidated book value of the assets of the Trust, CSH Trust and the Operator, as shown on the Trust's then most recent consolidated balance sheet**,** plus (i) the difference between the gross book value of assets calculated under the previous generally accepted accounting principles and IFRS on the IFRS Transition Date; (ii) acquisition related costs in respect of completed property acquisitions that were expensed in the period incurred; and (iii) the amount of accumulated depreciation and amortization shown thereon or in the notes thereto less the corresponding value of any property for which any obligation of the Trust has been issued or assumed as the Deferred Purchase Price of Property (or if approved by a majority of the Directors of the General Partner at any time, the appraised value of the assets of the Trust, CSH Trust and the Operator).

(b) **"affiliate"**, when used to indicate a relationship with a person or company, has the same meaning as in the *Securities Act* (Ontario).

(c) **"Annuitant"** means the annuitant or beneficiary of a Deferred Income Plan or any other plan of which a Unitholder acts as trustee or carrier.

(d) **"associate"**, when used to indicate a relationship with a person or company, has the same meaning as in the *Securities Act* (Ontario).

(e) **"Audit Committee"** means the committee established pursuant to Section 11.2.

(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 KPMG LLP, Chartered Accountants.

(g) **"Book-Entry System"** means the record-entry securities transfer and pledge system known, as of the date hereof, by such name, which is administered by CDS in accordance with the operating rules and procedures of the Securities Settlement Service of CDS in force from time to time, or any successor system which CDS may offer from time to time.

(h) **"Business Day"** means a day which is not a Saturday, Sunday or legal holiday in the Province of Ontario.

(i) **"CCC"** means Chartwell Care Corporation, a corporation governed by the laws of the Province of Ontario.

(j) **"CDS"** means The Canadian Depository for Securities Limited and its successors.

(k) **"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.

(l) **"Class A Master LP Units"** means the Class A limited partnership units of Master LP.

(m) **"Class B Master LP Units"** means the Class B limited partnership units of Master LP.

(n) **"Closing"** means the completion of the issue of Trust Units to the public pursuant to the Offering and the other transactions contemplated by the Prospectus.

(o) **"Compensation Committee"** means the Compensation, Governance and Nominating Committee of the board of directors of the sole trustee, Trustee Corp., of the General Partner.

(p) **"CSH Trust"** means CSH Trust, an open ended, limited purpose trust established under the laws of Ontario pursuant to the CSH Trust Declaration.

(q) **"CSH Trust Declaration"** means the ninth amended and restated declaration of trust of CSH Trust dated April 30, 2012, as amended and restated from time to time.

(r) **"CSH Trust Notes"** means, collectively, the Series 1 Trust Notes, Series 2 Trust Notes and Series 3 Trust Notes.

(s) **"CSH Trust Unit"** means a trust unit of CSH Trust, each such unit representing an equal undivided beneficial interest therein.

(t) **"CSH Trustee"** means the trustee or trustees of CSH Trust from time to time.

(u) **"Deferred Income Plan"** means any trust governed by a registered retirement savings plan, a registered retirement income fund, a registered education savings plan, a deferred profit sharing plan or a tax-free savings account, each as defined in the Tax Act.

(v) **"Deferred Purchase Price of Property"** means the amount of any obligation in respect of any property acquired or to be acquired by the Trust which relates to any portion of the purchase price or consideration to be paid to the vendor on or after the closing of such an acquisition, but does not include any vendor-take-back mortgage or other secured deferred obligation in respect of such an acquisition.

(w) **"Depository"** has the meaning ascribed thereto in Section 14.1(a).

(x) **"Directors of the General Partner"** means the members of the board of directors of the sole trustee, Trustee Corp., of the General Partner.

(y) **"Distribution Date"** means, in respect of a Distribution Period, and subject to Sections 5.3 and 5.4, the 15th day of the immediately following month or, if any

such day is not a Business Day, the next following Business Day, and such other dates determined from time to time by the Trustee.

(z) **"Distribution Period"** means initially the period from and including the date of Closing to and including December 31, 2003 and thereafter means each and every calendar month in each and every calendar year from and including the first day thereof and to and including the last day thereof.

(aa) **"Distribution Record Date"** means, until otherwise determined by the Trustees, the last Business Day of each month of each year, except for the month of December where the Distribution Record Date shall be December 31.

(bb) **"Distributions"** has the meaning ascribed thereto in Section 5.1.

(cc) **"Exchange Agreement"** means the agreement among the Trust, CSH Trust, Master LP and holders of Class B Master LP Units providing for the indirect exchange of Class B Master LP Units for Trust Units.

(dd) **"Exchange Right"** means the right granted under the Exchange Agreement to each holder of Class B Master LP Units to indirectly exchange all or any part of the Class B Master LP Units held by such holder for Trust Units on a one-for-one basis.

(ee) **"Exchangeable Security"** or **"Exchangeable Securities"** means a unit or units, a share or shares or other security or securities issued by the Trust or an affiliate of the Trust and which are convertible into or exchangeable for Trust Units or other Exchangeable Securities without the payment of additional consideration therefor.

(ff) **"generally accepted accounting principles"** means Canadian generally accepted accounting principles determined with reference to the Handbook of The Canadian Institute of Chartered Accountants, as amended from time to time.

(gg) **"General Partner"** means GP M Trust, the General Partner of Master LP, as represented by and acting through its sole Trustee, Trustee Corp.

(hh) **"GP M Trust"** means GP M Trust, a trust established under the laws of the Province of Ontario pursuant to the GP M Trust Declaration.

(ii) **"GP M Trust Declaration"** means the Declaration of Trust of GP M Trust dated November 14, 2003, as amended and restated from time to time.

(jj) **"IFRS"** means International Financial Reporting Standards.

(kk) "**IFRS Transition Date"** means January 1, 2010.

(ll) **"Independent Directors of the General Partner"** mean the Directors of the General Partner who are "independent" as defined in National Instrument 58-101 - *Disclosure of Corporate Governance Practices* to the Trust.

(mm) **"Independent Trustee"** means a Trustee who is "independent" as defined in National Instrument 58-101 – *Disclosure of Corporate Governance Practices* to the Trust.

(nn) **"Initial Contributions"** means the amount of $10 paid by the Initial Unitholder to the Trust on the 7th day of July, 2003 for the purpose of settling the trust constituted by this Declaration of Trust together with the amount of $990 paid by the Initial Unitholder to the Trust on the 28th day of October, 2003.

(oo) **"Initial Trust Units"** means the Trust Units issued to the Initial Unitholder by the Trust on the 7th day of July, 2003 and on the 28th day of October, 2003.

(pp) **"Initial Trustee"** has the meaning ascribed thereto in the recitals.

(qq) **"Initial Unitholder"** has the meaning ascribed thereto in the recitals.

(rr) **"insider"**, when used in Section 14.6, has the same meaning as in the *Securities Act* (Ontario).

(ss) **"Investment Committee"** means the Investment Committee of the board of directors of the sole trustee, Trustee Corp., of the General Partner.

(tt) **"Liquidated Net Assets of the Trust"** means the liquidated amount of net assets of the Trust contemplated by Section 15.6.

(uu) **"Master LP"** means Chartwell Master Care Limited Partnership, a limited partnership formed under the laws of the Province of Manitoba pursuant to the Master LP Limited Partnership Agreement.

(vv) **"Master LP Limited Partnership Agreement"** means the ninth amended and restated limited partnership agreement in respect of Master LP dated April 30, 2012, as amended and restated from time to time, among GP M Trust, as general partner, and the limited partners from time to time including CCC, CSH Trust and the Trust.

(ww) **"mortgage"** means any mortgage, charge, hypothec, bond, debenture, note or other evidence of indebtedness directly or indirectly secured by real property.

(xx) **"Net Income of the Trust"** or **"Net Loss of the Trust"** for any taxation year of the Trust means the net income or loss for such year determined pursuant to the provisions of the Tax Act having regard to the provisions thereof which relate to the calculation of taxable income of a trust, without reference to paragraph 82(1)(b) (dividend gross up) and subsection 104(6) (deduction for payments out of the Trust) of the Tax Act (including any income realized by the Trust on the redemption of Trust Units *in specie* and designated by the Trust as income payable to the redeeming Unitholders) and taking into account such other adjustments as may be determined in the discretion of the Trustees (provided that the Trustees exercise their discretion in this regard before the end of the Taxation Year); provided, however, that capital gains and capital losses shall be excluded

from the computation of net income; and provided further that, if such calculation results in income there shall be deducted the amount of any non-capital losses (as defined in the Tax Act) of the Trust for any preceding years; and Net Income of the Trust or Net Loss of the Trust for any period means the income or loss of the Trust for such period computed in accordance with the foregoing as if that period were the taxation year of the Trust.

(yy) **"Net Realized Capital Gains"** means, for any taxation year, the amount, if any, by which the amount of the capital gains of the Trust for the year exceeds the aggregate of (i) the amount of any capital losses of the Trust for the year determined in accordance with the Tax Act; (ii) the amount determined by the Trustees of any net capital losses of the Trust carried forward from a previous year to the extent not previously deducted from realized capital gains of the Trust; (iii) any amount in respect of which the Trust is entitled to a capital gains refund under the Tax Act, as determined by the Trustees; and (iv) if the Trustees so determine, any Net Loss of the Trust for the year and any unapplied non-capital losses (as defined in the Tax Act) of the Trust for preceding years of the Trust, in each case multiplied by the reciprocal of the applicable fraction in paragraph 38(a) of the Tax Act, provided that the Trustees shall first apply, to the maximum extent possible, the Net Loss for the year and the unapplied non-capital losses of the Trust for preceding years to reduce the Net Income of the Trust and provided further that, at the discretion of the Trustees, the Net Realized Capital Gains of the Trust for a year may be calculated without subtracting the full amount of the net capital losses for the year and/or without subtracting the full amount of the net capital losses of the Trust carried forward from previous years and/or without subtracting any or all of the Net Loss for the year and unapplied non-capital losses of the Trust for preceding years (provided that the Trustees exercise their discretion in this regard before the end of the Taxation Year); and Net Realized Capital Gains of the Trust for any period means the net realized capital gains of the Trust for such period computed in accordance with the foregoing as if that period were the taxation year of the Trust.

(zz) **"Non-Resident"** means a non-resident of Canada within the meaning of the Tax Act.

(aaa) **"Note Indenture"** means the Trust Indenture to be entered into on Closing between CSH Trust and the Note Trustee providing for the issuance of the CSH Trust Notes.

(bbb) **"Note Trustee"** means the trustee under the Note Indenture.

(ccc) **"Offering"** means the initial offering by the Trust of Trust Units to the public in Canada pursuant to the Prospectus.

(ddd) **"Operator"** means, collectively, Master LP, the General Partner and Master LP's subsidiaries.

(eee) **"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, fund, investment fund, investment vehicle, 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.

(fff) **"Prospectus"** means the (final) prospectus of the Trust dated October 31, 2003 relating to the Offering.

(ggg) **"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 corporations, trusts or partnerships whose sole or principal purpose and activity is to invest in, hold and/or deal in real property.

(hhh) **"Redemption Date"** has the meaning ascribed thereto in Section 6.3(a).

(iii) **"Redemption Price"** has the meaning ascribed thereto in Section 6.3(a) or 6.5, as the case may be.

(jjj) **"Register"** has the meaning ascribed thereto in Section 14.4.

(kkk) **"Resident"** means a resident of Canada within the meaning of the Tax Act.

(lll) **"Series 1 Trust Notes"** means the interest-bearing unsecured subordinated demand promissory notes, series 1, of CSH Trust to be issued to the Trust at Closing pursuant to the Note Indenture.

(mmm) **"Series 2 Trust Notes"** means the interest-bearing unsecured subordinated promissory notes, series 2, of CSH Trust issuable pursuant to the Note Indenture.

(nnn) **"Series 3 Trust Notes"** means the interest-bearing unsecured subordinated promissory notes, series 3, of CSH Trust issuable pursuant to the Note Indenture.

(ooo) **"Special Resolution"** has the meaning ascribed thereto in Section 13.6.

(ppp) **"Special Voting Unit Liquidation Amount"** has the meaning given thereto in Section 3.1(e).

(qqq) **"Special Voting Unit Pro Rata Share"** means the fraction the numerator of which is equal to the Special Voting Unit Redemption Amount and the denominator of which is equal to the sum of (i) the total number of all the Trust Units outstanding multiplied by the Redemption Price, and (ii) the total number of all the Special Voting Units outstanding multiplied by the Special Voting Unit Redemption Amount.

(rrr) **"Special Voting Unit Redemption Amount"** has the meaning set out in Article 7.

(sss) **"Special Voting Unitholders"** means at any time the persons whose names appear on the Register as holders of one or more Special Voting Units.

(ttt) **"Special Voting Units"** means the Special Voting Units of the Trust referred to in Section 3.1(a).

(uuu) **"subsidiary"** includes, with respect to any person, company, partnership, limited partnership, trust or other entity, any company, partnership, limited partnership, trust or other entity, controlled, directly or indirectly, by such person, company or entity and, in the case of the Trust, includes CSH Trust and Master LP and their respective subsidiaries and affiliates.

(vvv) **"Tax Act"** means the *Income Tax Act*, R.S.C. 1985 (5th Supp.) c. 1 and the regulations thereunder as amended from time to time.

(www) **"Taxation Year"** means the Taxation Year of the Trust for the purposes of the Tax Act.

(xxx) **"this Declaration of Trust"**, **"this Declaration"**, **"hereto"**, **"herein"**, **"hereof"**, **"hereby"**, **"hereunder"** and similar expressions refer to this instrument and not to any particular Section or portion hereof, and include any and every instrument supplemental or ancillary hereto.

(yyy) **"Transfer Agent"** means such company as may from time to time be appointed by the Trust to act as registrar and transfer agent of the Trust Units, together with any sub transfer agent duly appointed by the Transfer Agent and, initially, means Computershare Trust Company of Canada at its principal offices in Toronto, Ontario.

(zzz) **"Trust"** means the Chartwell Seniors Housing Real Estate Investment Trust, the trust established by the Declaration of Trust dated July 7, 2003 as may be supplemented, amended or restated from time to time.

(aaaa) **"Trust Liabilities"** has the meaning ascribed thereto in Section 2.7(a).

(bbbb) **"Trust Unitholders"** means at any time the persons whose names appear on the Register as holders of one or more Trust Units.

(cccc) **"Trust Units"** means the Trust Units of the Trust referred to in Section 3.1(a).

(dddd) **"Trustee"** means at any time, the individual who is, in accordance with the provisions hereof, a trustee of the Trust at that time and **"Trustees"** means, at any time, all of the individuals each of whom is at that time a Trustee.

(eeee) **"Trustee Corp."** means Chartwell Master Care Corporation, a corporation governed by the laws of the Province of Ontario.

(ffff) **"Trustees' Regulations"** has the meaning ascribed thereto in Section 10.3.

(gggg) **"Underwriting Agreement"** means an agreement dated October 31, 2003 and entered into between the Trust, CCC and the underwriters noted therein with respect to the Offering.

(hhhh) **"Unit Certificate"** means a certificate, in the form stipulated by Article 14, evidencing one or more Trust Units, issued and certified in accordance with the provisions hereof.

(iiii) **"Unitholders"** means at any time the Trust Unitholders and the Special Voting Units holders.

(jjjj) **"Units"** means the Trust Units and the Special Voting Units.

1.2 References to Acts Performed by the Trust

For greater certainty, where any reference is made in this Declaration of Trust to an act to be performed by the Trust, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by the Trustees on behalf of the Trust or by some other person duly authorized to do so by the Trustees or pursuant to the provisions hereof, and where any reference is made in this Declaration of Trust to actions, rights or obligations of the Trustees, such reference shall be construed and applied for all purposes to refer to actions, rights or obligations of the Trustees in their capacity as Trustees of the Trust, and not in their other capacities, unless the context otherwise requires.

1.3 Tax Act

Any reference herein to a particular provision of the Tax Act shall include a reference to that provision as it may be renumbered or amended from time to time. Where there are proposals for amendments to the Tax Act which 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.

1.4 Number and Gender

In this Declaration of Trust, unless herein otherwise expressly provided or unless the context otherwise requires, words importing the singular number include the plural, and vice versa; words importing a gender shall include the feminine, masculine and neuter genders; and words importing persons include an individual, partnership, association, body corporate, trustee, executor, administrator or legal representative.

1.5 Headings for Reference Only

The division of this Declaration of Trust into Sections, the provision of a Table of Contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Declaration of Trust.

1.6 Day Not a Business Day

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 except as otherwise provided herein.

1.7 Time of the Essence

Time shall be of the essence in this Declaration of Trust.

1.8 Governing Law

This Declaration of Trust and the Unit Certificates shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. 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 the Trustees hereby irrevocably attorn, and each Unitholder shall be deemed to hereby irrevocably attorn, to the exclusive jurisdiction of the courts of such province.

1.9 Currency

Unless otherwise specified, all references to money amounts are to lawful currency of Canada.

ARTICLE 2
DECLARATION OF TRUST

2.1 Establishment of the Trust

The Trustees declare and agree to hold and administer the 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 the Trust or to which the Trust is otherwise entitled 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 Contributions

The Trustees hereby acknowledge and confirm that concurrent with the execution of the Declaration of Trust dated July 7, 2003 the Initial Unitholder made an initial $10 contribution to the Trustees for the purpose of settling the Trust and a subsequent contribution of $990 to the Trustees. The Trustees acknowledge receipt of the Initial Contributions and the Initial Unitholder acknowledges receipt from the Trust of the Initial Trust Units in consideration therefor.

2.3 Name of the Trust

(a) The Trust shall be known and designated as "CHARTWELL SENIORS HOUSING REAL ESTATE INVESTMENT TRUST" and, whenever practicable, lawful and convenient, the property of the Trust shall be held and the affairs of the Trust shall be conducted and transacted under that name.

(b) If the Trustees determine that the use of such name is not practicable, legal or convenient, the Trust may use such other designation or may adopt such other name as the Trustees deem appropriate, and the Trust may hold property and conduct and transact its affairs under such other designation or name.

2.4 Head Office

The head office of the Trust hereby created shall be located at 100 Milverton Drive, Suite 700, Mississauga, Ontario L5R 4H1 or such other place or places in Canada as the Trustees may from time to time designate. The Trust may have such other offices or places in Canada for the conduct of its affairs as the Trustees may from time to time determine as necessary or desirable.

2.5 Nature of the Trust

The Trust is an unincorporated open-ended limited purpose investment trust. The Trust, its Trustees, the Units of any class 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 investment trusts or for this Trust by:

(a) applicable laws, regulations or other requirements imposed by applicable securities or regulatory authorities; and

(b) the terms, conditions and trusts set forth in this Declaration of Trust.

And without limiting the generality of the foregoing and insofar as possible, the terms of this Declaration of Trust insofar as they are inconsistent with the provisions of the *Trustee Act* (Ontario) shall prevail.

The beneficial interests and rights of a holder of any Unit shall be limited to the right to participate pro rata on a class basis in distributions payable to Unitholders when and as declared by the Trustees as contemplated by Article 5 and distributions payable to Unitholders upon the termination of the Trust as contemplated in Article 15 and to the right of redemption as contemplated in Articles 6 and 7. The Trust is not, 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 Annuitants or any of them or any officers or other employees of the Trust or any one of them or any person for any purpose be, or be deemed to be, treated in any way whatsoever as 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 property of the Trust 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.

2.6 Rights of Unitholders

The rights of each Unitholder to call for a redemption, 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's property or for a distribution of any particular asset forming part of the Trust's property or of any particular monies or funds received by the Trustees. The legal ownership of the property of the Trust 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 property of the Trust, 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.

2.7 Liability of Unitholders

(a) No Unitholder or Annuitant, in its capacity as such, shall incur or be subject to any personal liability, direct or indirect, absolute or contingent, in contract or in tort or of any other kind to any person and no resort shall be had to, nor shall recourse or satisfaction be sought from the private property of any Unitholder or Annuitant for any liability whatsoever in connection with: (i) the property and assets of the Trust or the ownership, use, operation, acquisition or disposition thereof or exercise or enjoyment of the rights, privileges, conditions or benefits attached thereto, associated therewith or derived therefrom; (ii) the obligations or the activities or affairs of the Trust; (iii) any actual or alleged act or omission of the Trustees or by any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); (iv) any act or omission of the Trustees or by any other person in the performance or exercise, or purported or attempted performance or exercise, of any obligation, power, discretion or authority conferred upon the Trustees or such other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); (v) any transaction entered into by the Trustees or by any other person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); or (vi) except as provided in Section 5.6, any taxes, levies, imposts or charges or fines, penalties or interest in respect thereof payable by the Trust or by the Trustees or by any other person (except the Unitholders to the extent required by applicable tax laws) on behalf of or in connection with the activities or affairs of the Trust (collectively **"Trust Liabilities"**) but rather the assets of the Trust are intended to be subject to levy or execution for satisfaction of such liabilities.

(b) No Unitholder or Annuitant in its capacity as such shall be liable to indemnify the Trustees or any other person with respect to any Trust Liabilities.

(c) To the extent that, notwithstanding the provisions of this Section 2.7 any Unitholder or Annuitant, in its capacity as such may be determined by a judgment of a court of competent jurisdiction to be subject to or liable in respect of any

Trust Liabilities, such Unitholder or Annuitant is entitled to be reimbursed out of the assets of the Trust for any payment of Trust Liabilities made by such Unitholder or Annuitant.

(d) If any asset of the Trust should be distributed or declared to be distributable to Unitholders contrary to the provisions of any subordination agreement between the Trust and the persons entitled to enforce any of the indebtedness of the Master LP or CSH Trust other than the Trust or contrary to the terms of the CSH Trust Notes or the subordination provisions of the Note Indenture under which the same are issued, then the persons entitled to enforce such subordination agreements or provisions shall be entitled to pursue whatever remedies may be available to them to enforce such subordination agreements or provisions and the limitations in Section 2.7(c) shall not apply to any judgment in respect of (and to the extent only based on) such contrary distribution and no Unitholder shall have the right to enforce any distribution contrary to such subordination agreements or provisions.

(e) The Trustees shall cause the operations of the Trust to be conducted in such a way and in such jurisdictions as to avoid, to the extent which they determine to be practicable and consistent with their fiduciary duty to act in the best interests of the Unitholders, any material risk of liability on the Unitholders or Annuitants for claims against the Trust, and shall, to the extent available on terms which they determine to be practicable, including the cost of premiums, cause the Trust to carry insurance for the benefit of the Unitholders and Annuitants, in their capacity as such, 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 10.7, 10.10 and 10.11.

ARTICLE 3
ISSUE AND SALE OF UNITS

3.1 Nature of Trust Units and Special Voting Units

(a) The beneficial interests in the Trust shall be divided into interests of two classes, described and designated as "Trust Units" and "Special Voting Units", which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein and as classes. The interest of each Trust Unitholder shall be determined by the number of Trust Units registered in the name of the Trust Unitholder. The interest of each Special Voting Unitholder shall be determined by the number of Special Voting Units registered in the name of the Special Voting Unitholder.

(b) The issued and outstanding Trust Units or Special Voting Units may be, respectively, subdivided or consolidated from time to time by the Trustees without notice to the Unitholders.

(c) Each Trust Unit represents an equal undivided beneficial interest in any distribution payable to Trust Unitholders from the Trust, whether of net income, net realized capital gains or other amounts, and in any of the net assets of the

Trust remaining after satisfaction of all liabilities payable to Trust Unitholders in the event of termination or winding up of the Trust. As a class, Trust Units shall rank among themselves equally and rateably without discrimination, preference or priority.

(d) Each Trust Unit shall entitle the holder of record thereof to one vote at all meetings of Unitholders.

(e) Each Special Voting Unit represents an equal undivided beneficial interest in any distribution payable to holders of Special Voting Units from the Trust, whether of net income, net realized capital gains or other amounts, and in any of the net assets of the Trust remaining after satisfaction of all liabilities payable to Special Voting Unitholders in the event of termination or winding up of the Trust. The Special Voting Units shall rank equally and rateably without discrimination, preference or priority, as a class and with the Trust Units in respect of distributions and on a liquidation, dissolution or winding-up of the Trust, provided that in the event of liquidation, dissolution or winding-up of the Trust, the holder of a Special Voting Unit shall be entitled only to an amount equal to the product of the Liquidated Net Assets of the Trust and the Special Voting Unit Pro Rata Share (the **"Special Voting Unit Liquidation Amount"**) and provided further that, notwithstanding anything else contained in this Declaration of Trust, the aggregate Special Voting Unit Liquidation Amount shall not exceed 4.9% of the net value of the assets of the Trust.

(f) Special Voting Units may be issued in series and shall only be issued to holders of record of Exchangeable Securities and shall only be issued at the time of issue of such Exchangeable Securities. Each Special Voting Unit shall entitle the holder of record thereof to a number of votes at all meetings of Unitholders or in respect of any written resolution of Unitholders equal to the number of Trust Units into which the Exchangeable Securities to which such Special Voting Unit relates are exchangeable, exercisable or convertible. Each Special Voting Unit shall be redeemable by the Trust. In the event of an offer by any person to purchase Exchangeable Securities which is made on identical terms to the holders of all outstanding Trust Units, the related Special Voting Units may be transferred pursuant to such offer without permission of the Trustees. No registered holder of Special Voting Units shall be entitled to a certificate representing or evidencing such Special Voting Units and shall be entitled only to be entered on the Register as a Special Voting Unitholder and the Register shall be conclusive as to the Special Voting Unitholders and the voting entitlement of each Special Voting Unitholder.

(g) Concurrently with the issuance of any Exchangeable Securities, the Trust shall enter into such agreements as may be necessary or desirable to properly provide for the terms of the Exchangeable Securities, the voting rights attached to any Special Voting Units issued to the holder of such Exchangeable Securities and the, direct or indirect, conversion, exercise, redemption or exchange of such Exchangeable Securities for Trust Units or for other Exchangeable Securities including, without limitation, consolidation and subdivision provisions that provide for concurrent consolidation or subdivision, as the case may be, upon the

consolidation or subdivision of the Trust Units, and the conditional and automatic conversion, exercise, redemption or exchange of such Exchangeable Securities in the event of a take-over bid for the Trust Units as provided in Section 14.8, provided that the Trust shall not enter into any agreement that would cause (i) the Trust not to qualify as a "mutual fund trust" for purposes of the Tax Act; or (ii) the Trust Units to be considered "foreign property" for purposes of the Tax Act.

3.2 Authorized Number of Trust Units

The aggregate number of Trust Units and Special Voting Units which is authorized and may be issued hereunder is unlimited.

3.3 Units Non-Assessable

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 as determined by the Trustees, in their discretion. In determining whether property or past services are the fair equivalent of a money consideration, 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. Notwithstanding the foregoing, Units may be issued and sold on an instalment receipt basis, in which event beneficial ownership of such Trust Units may be represented by the instalment receipts, but shall otherwise be non-assessable.

3.4 Fractional Units

If as a result of any act of the Trustees hereunder or otherwise any person becomes entitled to a fraction of a Unit, such person is not entitled to receive a certificate therefor. 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 and Section 3.9(a), 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.

3.5 Allotment and Issue

Subject to Section 4.2(k), the Trustees may allot and issue Units at such time or times and in such manner (including pursuant to any plan from time to time in effect relating to reinvestment by Unitholders of their distributions of the Trust in Trust Units), 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.

3.6 Rights, Warrants, Options, Convertible Indebtedness and Other Securities

The Trustees may create and issue rights, warrants or options or other instruments or securities to subscribe for fully paid Trust 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 Trustees may determine. The rights, warrants, options, instruments or securities so created may be issued for such consideration or for no consideration, all as the Trustees may determine. A right, warrant, option, instrument or security shall not be a Trust Unit and a holder thereof shall not be a Unitholder. Subject to the provisions of Article 4 hereof, the Trustees 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 Trust Units, or which indebtedness, by its terms, may be convertible into Trust Units at such time and for such prices as the Trustees may determine. Any indebtedness so created shall not be a Trust Unit and a holder thereof shall not be a Unitholder unless and until fully paid Trust Units are issued in accordance with the terms of such indebtedness.

3.7 Commissions and Discounts

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

3.8 Transferability

(a) Trust Units are freely transferable and, except as stipulated in Sections 3.9, 14.5 and 14.6, the Trustee shall not impose any restriction on the transfer of Trust Units by any Unitholder except with the consent of such Unitholder.

(b) Special Voting Units shall only be transferable to a Resident transferee by the holders thereof and only together with the related Exchangeable Securities and with the prior written consent of the Trustees. No transfer of Special Voting Units shall be effective as against the Trust or the Trustees or shall be in any way binding upon the Trust or the Trustees until the transfer has been recorded on the Register or one of the branch transfer registers maintained by the Trustees, the Trust or the Transfer Agent. Subject to the provisions of Article 14, Special Voting Units shall be transferable on the Register or one of the branch transfer registers 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 all necessary transfer or other taxes imposed by law, together with such evidence of the genuineness of such 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.

3.9 Transfer of Trust Units

(a) Subject to the provisions of Article 14, the Trust Units shall be, for all purposes of the Trust and this Declaration of Trust, personal and moveable property, and shall

be fully transferable without charge as between persons, but no transfer of Units shall be effective as against the Trust or the Trustees or shall be in any way binding upon the Trust or the Trustees until the transfer has been recorded on the Register or one of the branch transfer registers maintained by the Trustees, the Trust or the Transfer Agent. No transfer of a Trust Unit shall be recognized unless such transfer is of a whole Trust Unit.

(b) Subject to the provisions of Article 14, Trust Units shall be transferable on the Register or one of the branch transfer registers 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 the Unit Certificate, properly endorsed or accompanied by a duly executed instrument of transfer or power of attorney 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 a new Unit Certificate for the Trust Units shall be issued to the transferee and a new Unit Certificate for the balance of Trust Units not transferred shall be issued to the transferor.

(c) Unit Certificates representing any number of Trust Units may be exchanged without charge for Unit Certificates representing an equivalent number of Trust 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 Article 14. Any Unit Certificates tendered for exchange shall be surrendered to the Trustees or appropriate Transfer Agent and then shall be cancelled.

(d) The Trustees shall use all reasonable efforts to obtain and maintain a listing for the Trust Units, on one or more stock exchanges in Canada.

3.10 Successors in Interest to Unitholders

Subject to the provisions of Article 14, any person becoming 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 as the holder of such Units and shall receive a new Unit Certificate therefor upon production of evidence thereof satisfactory to the Trustee and delivery of the existing Unit Certificate to the Trustee or a transfer agent to the Trust, but until such record is made, the Unitholder of record shall continue to be and be deemed to be the holder of such Units for all purposes whether or not the Trust, the Trustee or the Transfer Agent or registrar of the Trust shall have actual or other notice of such death, bankruptcy, incompetence or other event.

3.11 Trust 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 their ownership is expressly otherwise recorded on the register of the Trust, but no entry shall be made in the register or on any certificate 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 as a holder of any Unit may, subject to the provisions herein contained, be described in the register or on any certificate 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.

3.12 Performance of Trusts

The Trustees, the officers of the Trust, the Unitholders, any transfer agent or other agent of the Trust or the Trustees, shall not 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 any interest therein are or may be subject, or to ascertain or inquire whether any sale or transfer of any such Units or interest therein by any such Unitholder or his personal representative is authorized by such trust, charge, pledge or equity, or to recognize any person as having any interest therein, except for the person recorded on the Register as Unitholder.

3.13 Death of Unitholders

The death of a Unitholder during the continuance of the Trust shall not terminate the Trust or give such Unitholder's legal representatives a right to an accounting or to take any action in the courts or otherwise against other Unitholders or the Trustees or the property of the Trust, but shall only entitle the legal representatives of the deceased Unitholder, subject to the provisions of Article 14, to the rights described in Section 3.10, at which time such legal representative shall, subject to the provisions of Article 14, succeed to all rights of the deceased Unitholder under this Declaration of Trust.

3.14 Unclaimed Distributions

In the event that the Trustees hold amounts to be paid to Unitholders under Articles 5, 6 and 15 or otherwise which are unclaimed or which can not 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 any time prior to such required time, pay all or part of the distributions so held to a court in the province in which the Trust has its principal office or to the Public Guardian and Trustee of Ontario (or other similar government official or agency in the province in which the Trust has its principal office) whose receipt shall be a good and sufficient discharge of the obligations of the Trustees.

3.15 Repurchase of Trust 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 Trust Units, at a price per Trust Unit and on a basis to be determined by the Trustees in compliance with all applicable securities regulatory laws, regulations or policies or the policies of any applicable stock exchange.

3.16 Purchase of Initial Trust Units by the Trust

Immediately after the Closing, the Trust will purchase the Initial Trust Units from the Initial Unitholder, and the Initial Unitholder shall sell the Initial Trust Units to the Trust, for a purchase price of $1000.00 and, upon the completion of such purchase and sale, the Initial Trust Units shall be cancelled and shall no longer be outstanding for any of the purposes of this Declaration of Trust.

3.17 Consolidation of Trust Units

Unless the Trustee determines otherwise, immediately after any *pro rata* distribution of additional Trust Units to all Trust Unitholders pursuant to Section 5.5(b), the number of the outstanding Trust Units will automatically be consolidated such that each Trust Unitholder will hold after the consolidation the same number of Trust Units as the Trust Unitholder held before the distribution of additional Trust Units. In this case, each Unit Certificate representing a number of Trust Units prior to the distribution of additional Trust Units is deemed to represent the same number of Trust Units after the non-cash distribution of additional Trust Units and the consolidation.

Notwithstanding the foregoing, where tax is required to be withheld from a Trust Unitholder's share of the distribution, the consolidation will result in such Trust Unitholder holding that number of Trust Units equal to (i) the number of Trust Units held by such Trust Unitholder prior to the distribution plus the number of Trust Units received by such Trust Unitholder in connection with the distribution (net of the number of whole and part Trust Units withheld on account of withholding taxes) multiplied by (ii) the fraction obtained by dividing the aggregate number of Trust Units outstanding prior to the distribution by the aggregate number of Trust Units that would be outstanding following the distribution and before the consolidation if no withholding were required in respect of any part of the distribution payable to any Trust Unitholder. Such Unitholder will be required to surrender the Unit Certificates, if any, representing such Trust Unitholder's original Trust Units, in exchange for a Unit Certificate representing such Trust Unitholder's post consolidation Trust Units.

3.18 No Pre Emptive Rights

Other than under the Exchange Agreement and pursuant to the terms of any Exchangeable Securities, no person shall be entitled, as a matter of right, to subscribe for or purchase any Trust Unit.

ARTICLE 4
INVESTMENTS AND OPERATIONS OF THE TRUST

4.1 Investment Restrictions

After the Closing, the assets of the Trust may be invested, directly or indirectly, only in securities of CSH Trust, Master LP, Trustee Corp. and their respective associates and only in accordance with the following restrictions on a consolidated basis (except for Section 4.1(c) below):

(a) the Trust shall focus its acquisition activities on existing income producing seniors housing facilities located in Canada and the United States of America that are substantially occupied, and on the seniors housing operations and development management businesses in Canada and in the United States of America;

(b) the Trust shall not acquire any interest in a single real property if, after giving effect to the proposed acquisition, the cost to the Trust of such acquisition (net of the amount of acquisition debt) will exceed 15% of the Trust's Adjusted Gross Book Value;

(c) 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 "registered investment" within the meaning of the Tax Act; that would result in the Trust Units being disqualified for investment by Deferred Income Plans; or that would result in CSH Trust being liable to pay tax under Part XII.2 of the Tax Act;

(d) the Trust may invest in a joint venture arrangement only if:

(i) the arrangement is one pursuant to which the Trust holds an interest in a seniors housing facility jointly or in common with others (**"joint venturers"**) either directly or through the ownership of securities of a corporation or other entity (a **"joint venture entity"**);

(ii) the Trust's interest in the joint venture arrangement is not subject to any restriction on transfer other than a right of first refusal or a right of first offer, if any, in favour of the joint venturers;

(iii) the Trust has a right of first refusal or a right of first offer to buy the interests of the other joint venturers;

(iv) the joint venture arrangement provides an appropriate liquidity mechanism to enable the Trust to purchase the other joint venturers' interests or to sell its interest; and

(v) the joint venture arrangement requires the Trust, a subsidiary of the Trust or designee thereof to participate fully, directly or indirectly, in the management thereof;

(e) except as set out above for temporary investments held in cash, deposits with a Canadian chartered bank or trust company registered under the laws of a province of Canada, short-term government debt securities, some or all of the receivables under instalment receipt agreements or money market instruments of, or guaranteed by, a Canadian bank listed on Schedule I to the *Bank Act* (Canada) maturing prior to one year from the date of issue, the Trust may not hold securities other than securities of a joint venture entity or an entity wholly owned by the Trust formed and operated solely for the purpose of holding a particular

real property or real properties or managing real property or real properties or some or all of the receivables under instalment receipt agreements, and provided further that, subject to paragraph (c) above, notwithstanding anything contained in this Declaration of Trust to the contrary, the Trust may acquire securities of other Canadian real estate investment trusts or limited partnership units of limited partnerships that invest in real estate;

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

(g) the Trust shall not invest in operating businesses other than seniors housing or related businesses;

(h) the Trust shall not invest in raw land for development except for: (i) existing properties with additional development potential or properties adjacent to existing properties of the Trust for the purpose of (y) the renovation or expansion of existing facilities, or (z) the development of new facilities which will be capital property of the Trust or of the Trust and its joint venture partners, as applicable; or (ii) the purpose of developing a facility which will replace an existing facility and to which it is intended that the residents of the existing facility will relocate;

(i) the Trust may invest in mortgages and mortgage bonds (including, with the consent of a majority of the Trustees, participating or convertible mortgages) where:

(i) the real property which is security therefor is income-producing seniors housing facility which otherwise meets the general investment restrictions of the Trust adopted by the Trustees from time to time in accordance with this Declaration of Trust and the restrictions set out herein;

(ii) the amount of the mortgage loan is not in excess of 75% of the market value of the property securing the mortgage and the mortgage has at least 1.2X debt service coverage;

(iii) the mortgage is a first mortgage registered on title to the real property which is security therefor; and

(iv) the aggregate value of the investments of the Trust on a consolidated basis in these mortgages, after giving effect to the proposed investment, will not exceed 15% of the Adjusted Gross Book Value calculated at the time of such investment;

(j) the Trust may invest in mortgages, including mezzanine financings, if the sole intention is to use the acquisition of the mortgages as a method of acquiring control of real property that is income-producing or is being developed for that purpose which would otherwise meet the investment restrictions of the Trust on a consolidated basis and provided that the aggregate value of the investments of the Trust in these mortgages, after giving effect to the proposed investment, will not

exceed 20% of the Adjusted Gross Book Value (including the investments described in paragraph (i) above);

(k) notwithstanding paragraph (j), the Trust may also invest in mortgages where:

(i) the mortgage is a ‘‘vendor take-back’’ mortgage granted to the Trust in connection with the sale by it of existing real property and as a means of financing the purchaser’s acquisition of such property from the Trust;

(ii) the mortgage is interest bearing;

(iii) the mortgage is registered on title to the real property which is security therefor;

(iv) the mortgage has a maturity not exceeding five years;

(v) the amount of the mortgage loan is not in excess of 75% of the selling price of the property securing the mortgage; and

(vi) the aggregate value of these mortgages to the Trust on a consolidated basis (including mortgages and mortgage bonds in which the Trust is permitted to invest by virtue of paragraphs (i) and (j)), after giving effect to the proposed investment, will not exceed 20% of the Adjusted Gross Book Value calculated at the time of such investment; and

(l) the Trust may invest an amount (which, in the case of an amount invested to acquire real property, is the purchase price by the Trust and secured by a mortgage on such property) up to 15% of the Adjusted Gross Book Value of the Trust in investments or transactions which do not comply with paragraphs (e), (h) and (k) above.

For greater certainty, Sections 4.1(a) through (l) are intended to set out generally the parameters under which subsidiaries in which the Trust is permitted to invest will be empowered under their constating documents to re-invest. Further, any determinations in respect of the investment restrictions that are determinations reserved to the Trustees, where the actual activity is carried on by a subsidiary, will be made by the trustees or directors of the relevant subsidiary. Nothing in Section 4.1(a), (b), and paragraphs (d) through (l) empowers or entitles the Trust or the Trustees to carry on business or to otherwise undertake any activity that would violate Section 4.1(c) or Section 4.3.

4.2 Operating Policies

After the Closing, the operations and affairs of the Trust will be conducted in accordance with the following policies:

(a) (i) the Trust shall not purchase, sell, market or trade in currency or interest rate futures contracts otherwise than for hedging purposes where, for the purposes hereof, the term “hedging” shall have the meaning ascribed thereto by National Instrument 81-102 – *Mutual Funds adopted by the Canadian Securities Administrators*, as amended from time to time; and (ii) other than with respect to

its own Units and other securities, the Trust shall not underwrite, sell or market or participate therein;

(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 duty to act in the best interests 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 shall not be had to, nor shall recourse or satisfaction be sought from, by way of lawsuit or otherwise, the private property of any of the Trustees, Unitholders, Annuitants or officers, employees or agents of the Trust, but that only property of the Trust or a specific portion thereof shall be bound; the Trust, however, is not required, but shall use all reasonable efforts, to comply with this requirement in respect of obligations assumed by the Trust upon the acquisition of real property;

(c) subject to Section 4.1(l), except for renovation, expansion, replacement or relocation of existing facilities and the development of new facilities on property adjacent to existing properties of the Trust as permitted under Section 4.1(h), the Trust shall not engage in construction or development of real property except as necessary to maintain its real properties in good repair, to enhance the income-producing ability of capital properties in which the Trust has an interest or as necessary or advisable in connection with the exercise of its rights as a creditor upon the default of any borrower;

(d) title to each real property shall be held by and registered in the name of the Trust, the Trustees, or a corporation or other entity wholly-owned by the Trust or jointly-owned by the Trust with joint venturers;

(e) the Trust shall not incur or assume any indebtedness under a mortgage on any real property of the Trust unless, at the date of the proposed assumption or incurring of the indebtedness, the aggregate of (i) the amount of all indebtedness, excluding operating lines, secured on such real property, and (ii) the amount of additional indebtedness, excluding operating lines, proposed to be assumed or incurred, does not exceed 75% of the market value of such real property provided that such aggregate indebtedness may exceed 75% of such market value (a) if the entire amount of such aggregate indebtedness is insured by Canada Mortgage and Housing Corporation, or (b) where such indebtedness is the result of an assumption of mortgage indebtedness upon the acquisition of real property, until the maturity of the mortgage, at which time the amount of mortgage indebtedness outstanding must be reduced so as not to exceed 75% of the then applicable market value;

(f) the Trust shall not incur or assume any indebtedness if, after giving effect to the incurring or assumption of the indebtedness:

(i) the total indebtedness of the Trust and its consolidated subsidiaries, excluding convertible debentures, would be more than 60% of Adjusted Gross Book Value; or

(ii) the total indebtedness of the Trust and its consolidated subsidiaries, including convertible debentures, would be more than 65% of Adjusted Gross Book Value;

(g) the Trust may only provide a guarantee in respect of the indebtedness of (i) Master LP or a wholly-owned subsidiary of the Trust if the provision by the Trust of such guarantee will not cause the Trust to cease to qualify as a "mutual fund trust" for the purposes of the Tax Act; and (ii) any person other than a person referred to in (i) if the provision by the Trust of such guarantee will not cause the Trust to cease to qualify as a "mutual fund trust" for the purposes of the Tax Act and such guarantee is approved by a majority of the Trustees or unanimously by the Investment Committee;

(h) the Trust shall conduct or receive on terms approved by the Trustees an independent appraisal and an engineering survey with respect to the physical condition thereof (including capital replacement programs) of each property that it intends to acquire;

(i) the Trust shall obtain and maintain at all times 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 practices of owners of comparable properties;

(j) the Trust shall conduct or receive on terms approved by the Trustees a Phase I environmental site assessment of each property to be acquired by it and, if the Phase I environmental site assessment recommends that further environmental site assessments be conducted, the Trust shall conduct or receive on terms approved by the Trustees such further environmental site assessments, in each case by an independent and experienced environmental consultant; such assessment as a condition to any acquisition shall be satisfactory to the Trustees;

(k) except pursuant to any plan from time to time in effect relating to reinvestments by Trust Unitholders of their distributions of the Trust, the Trust shall not issue additional securities unless the Trustees consider such issuances not to be dilutive to ensuing annual Distributions per Trust Unit to existing Trust Unitholders; and

(l) the Trust shall not, directly or indirectly, guarantee any indebtedness or liabilities of any kind of another person, except indebtedness or liabilities assumed or incurred by an entity in which the Trust invests, directly or indirectly, or by an entity jointly-owned by the Trust with joint venturers and operated solely for the purpose of holding a particular property or properties where such indebtedness, if granted by the Trust directly, would not cause Trust to otherwise contravene the investment restrictions set out in Section 4.1 of this Declaration of Trust or the operating policies set out in Section 4.2 of this Declaration of Trust. The Trust is

not required but shall use its reasonable best efforts to comply with this requirement (i) in respect of obligations assumed by the Trust pursuant to the acquisition of real property or (ii) if doing so is necessary or desirable in order to further the initiatives of the Trust permitted under this Declaration of Trust.

For greater certainty Sections 4.2(a) through (i) are intended to set out generally the parameters under which the Trust (and subsidiaries in which the Trust is permitted to invest) will operate. References to the Trust in those paragraphs shall be read as applying to such subsidiary where the actual activity that is the subject of the policy is carried on by such subsidiary (with the exception of Section 4.2(a)(ii) which is intended to apply only to the Trust, Section 4.2(g) which is only intended to apply to the Trust and the reference to Distributions per Trust Unit to existing Trust Unitholders in Section 4.2(k)). Further, any determinations in respect of the operating policies that are determinations reserved to the Trustees, where the actual activity is carried on by a subsidiary, will be made by the trustees or directors of the relevant subsidiary. Nothing in Sections 4.2(a) through (l) empowers or entitles the Trust or the Trustees to carry on business or otherwise undertake any activity that would violate Section 4.1(c) or Section 4.3.

For the purposes of the foregoing restrictions and policies, the assets, liabilities and transactions of a corporation, partnership or other entity wholly or partially owned by the Trust will be deemed to be those of the Trust on a proportionate, consolidated basis. In addition, any references in the foregoing investment restrictions and operating policies to investment in real property will be deemed to include an investment in a joint venture arrangement. In addition, the term "indebtedness" means (without duplication) on a consolidated basis:

(i) any obligation of the Trust for borrowed money;

(ii) any obligation of the Trust 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 capital lease obligation of the Trust; and

(iv) any obligation of the type referred to in clauses (i) through (iii) of another person, the payment of which the Trust has guaranteed or for which the Trust is responsible for or liable;

provided that (A) for the purposes of (i) through (iv), an obligation (other than an obligation relating to convertible debentures) will constitute indebtedness only to the extent that it would appear as a liability on the consolidated balance sheet of the Trust in accordance with IFRS; (B) obligations referred to in clauses (i) through (iv) exclude trade accounts payable, distributions payable to Unitholders and accrued liabilities arising in the ordinary course of business; (C) convertible debentures will constitute indebtedness to the extent of the principal amount thereof outstanding; and (D) indebtedness shall not include any obligation of the Trust which is Deferred Purchase Price of Property.

4.3 Mutual Fund Trust Status and Registered Investment

The Trustees shall cause the Trust to do all such things and take all such action as may be necessary to obtain, as soon as practicable following the Closing, status for the Trust as a "registered investment" under the Tax Act from the date of Closing on the basis that it was a "mutual fund trust" for purposes of the Tax Act from that date, and shall do all such things and take such action as may be necessary from time to time to ensure that the Trust shall retain such status. The Trustees shall cause the Trust to elect, in respect of 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. 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 a "registered investment" within the meaning of the Tax Act; that would result in the Trust Units being disqualified for investment by Deferred Income Plans; or that would result in CSH Trust being liable to pay tax imposed under Part XII.2 of the Tax Act.

4.4 Application of Investment Restrictions and Operating Guidelines

With respect to the investment restrictions and operating guidelines contained in Sections 4.1 and 4.2, where any maximum or minimum percentage limitation is specified in any of the restrictions therein contained, such restrictions shall be applied on the basis of the relevant amounts calculated immediately after the making of such investment. Any subsequent change relative to any percentage limitation which results from a subsequent change in the book value of the assets of the Trust or the amount of Adjusted Gross Book Value will not require divestiture of any investment.

4.5 Regulatory Matters

If at any time a regulatory authority having jurisdiction over the Trust or any property of the Trust shall enact any law, regulation or requirement which is in conflict with any investment restriction of the Trust then in force, such restriction in conflict shall, if the Trustee 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 Trustee shall not require the prior approval of Unitholders.

ARTICLE 5
DISTRIBUTIONS

5.1 Determination of Amounts to be Distributed

Income of the Trust to be distributed to Unitholders on each Distribution Date (the **"Distributions"**) in respect of each Distribution Period or other period as the Trustees in their discretion may determine, shall be determined by the Trustees, subject to the requirements set out in Section 5.2.

5.2 Distributions Payable

The Trust shall distribute on each Distribution Date the Distributions as determined by the Trustees in accordance with Section 5.1, provided that the Trust receives amounts equal to such Distributions from its investments. The constating documents of each of CSH Trust and Master LP provide for distributions consistent with such requirements and the Trustees shall not amend such constating documents with respect to distributions without the approval of Unitholders by a majority of votes cast at a duly called meeting. Unitholders at the close of business on each Distribution Record Date shall be entitled to receive and to enforce payment of any Distribution declared by the Trustees for such Distribution Period.

5.3 Distribution on Special Voting Units

The Trust shall also declare payable and distribute, on December 31st of each year in respect of that Taxation Year of the Trust, to the holder of each Special Voting Unit that is a Special Voting Unitholder of record on that date, an amount equal to the product of (i) the Special Voting Unit Pro Rata Share, and (ii) an amount equal to the sum of the reasonable estimate of the Net Income of the Trust for such year and the Net Realized Capital Gains of the Trust for such year; provided that, notwithstanding anything else contained in this Declaration of Trust, the aggregate annual distributions on the Special Voting Units shall not exceed 4.9% of the total annual distributions on the Units for that year.

5.4 Other Distributions

Having regard to the present intention of the Trustees to allocate, distribute and make payable to Unitholders all of the Net Income of the Trust, Net Realized Capital Gains and any other applicable amounts as may be reasonably necessary to ensure that the Trust will not have any liability for tax under Part I of the Tax Act in any taxation year, the following amounts shall, unless the Trustees pass a resolution to the contrary, be due and payable to Unitholders of record on December 31 in each such year:

(a) an amount equal to the amount, if any, by which the Net Income of the Trust for such year exceeds the aggregate of the portions, if any, of each Distribution paid or payable by the Trust pursuant to Section 5.2 and Section 5.3 which have been determined by the Trustees, pursuant to Section 5.9, to have been payable by the Trust out of Net Income of the Trust for such year and the amount of Net Income of the Trust treated as having been payable in the year pursuant to Section 6.5; and

(b) an amount equal to the amount, if any, by which the Net Realized Capital Gains of the Trust for such year exceeds the aggregate of the portions, if any, of each Distribution paid or payable by the Trust pursuant to Section 5.2 and Section 5.3 which have been determined by the Trustees, pursuant to Section 5.9, to have been payable by the Trust out of Net Realized Capital Gains for such year and the amount of taxable capital gain treated as having been payable in the year pursuant to Section 6.5.

5.5 Payment of Distributions

(a) Distributions paid on each Trust Unit and Special Voting Unit shall be equal to that paid on each other Trust Unit and Special Voting Unit, respectively, and cash distributions shall be made by cheque payable to or to the order of the Unitholder, by electronic funds transfer or by such other manner of payment approved by the Trustee from time to time. The payment, if made by cheque, shall be conclusively deemed to have been made upon hand-delivery of a cheque to the Unitholder or to his agent duly authorized in writing or upon the mailing of a cheque by prepaid first-class mail addressed to the Unitholder at his address as it appears on the Register unless the cheque is not paid on presentation. In the case of joint registered Unitholders, any cash payment required hereunder to be made to a Unitholder shall be deemed to be required to be made to such Unitholders jointly and shall be paid by cheque or bank draft but may also be paid in such other manner as the joint registered Unitholders or any one of the joint registered Unitholders has designated to the Trustees and the Trustees have accepted. For greater certainty, a Unitholder or any one of the joint Unitholders may designate and the Trustees may accept that any payment required to be made hereunder shall be made by deposit to an account of such Unitholder or to a joint account of such Unitholder and any other person or in the case of joint registered Unitholders to an account of joint registered Unitholders or to an account of any one of the joint registered Unitholders. A cheque or bank draft shall, unless the joint registered Unitholders otherwise direct, be made payable to the order of all of the said joint registered Unitholders, and if more than one address appears on the books of the Trust in respect of such joint unitholding, the cheque or bank draft or payment in other acceptable manner as aforesaid shall satisfy and discharge all liability of the Trustees or the Trust for the amount so required to be paid unless the cheque or bank draft is not paid at par on presentation at any other place where it is by its terms payable. The receipt by the registered Unitholder in another acceptable manner of any payment not mailed or paid in accordance with this Section 5.5(a) shall be a valid and binding discharge to the Trust and to the Trustees for any payment made in respect of the registered Units and if several Persons are registered as joint registered Unitholders or, in consequence of the death, bankruptcy or incapacity of a Unitholder, one or several Persons are entitled so to be registered, subject to the provisions of Article 14, in accordance with this Declaration of Trust, respectively, receipt of payment by any one of them shall be a valid and binding discharge to the Trust and to the Trustees for any such payment. The Trustees may issue a replacement cheque if they are satisfied that the original cheque has not been received or has been lost or destroyed upon being furnished with such evidence of loss, indemnity or other document in connection therewith that they may in their discretion consider necessary. A Unitholder shall be entitled on the day on which a distribution is payable pursuant to Sections 5.2, 5.3 or 5.4 to enforce payment of the amount payable to the Unitholder. However, no Unitholder will be entitled to recover by action or other legal process against the Trust any distribution that is represented by a cheque that has not been duly presented to the Trust's banker for payment or that otherwise remains unclaimed for a period of six years from the date on which such distribution was payable. For greater certainty, while the Trust Units are

maintained in the book-based system, any payments by the Trust with respect to the Trust Units will be made to CDS as the sole registered Trust Unitholder.

(b) Where the Trustees determine that the Trust does not have available cash in an amount sufficient to make payment of the full amount of any distribution which is payable under this Article 5 on the due date for such payment, the payment may, at the option of the Trustees, include the issuance of additional Trust Units, or fractions of Trust Units, if necessary, having a fair market value as determined by the Trustees equal to the difference between the amount of such distribution and the amount of cash which has been determined by the Trustees to be available for the payment of such distribution. Notwithstanding the foregoing, distributions on the Special Voting Units will only be made in cash.

5.6 Withholding Taxes

The Trustees may deduct or withhold from distributions payable to any Unitholder all amounts required by law to be withheld from such distributions, whether such distributions are in the form of cash, additional Trust Units or otherwise. In the event of a distribution in the form of additional Trust Units, the Trustees may sell Trust Units of such Unitholder to pay such withholding taxes and to pay all the Trustees' reasonable expenses with regard thereto and the Trustees shall have the power of attorney of such Unitholder to do so. Any such sale shall be made on any stock exchange on which the Trust Units are then listed and upon such sale, the affected Unitholder shall cease to be the holder of such Trust Units.

5.7 Reinvestment

The Trustees may in their sole discretion establish a distribution reinvestment plan at any time providing for the voluntary reinvestment of distributions by some or all Trust Unitholders as the Trustees determine. Such plan may entitle those Trust Unitholders that elect to participate in a bonus distribution from the Trust or otherwise be entitled to receive additional Trust Units in respect of each distribution.

5.8 Income Tax Matters

In computing the Net Income of the Trust for income tax purposes for any year, except as the Trustees otherwise determine, the Trust shall claim the maximum amount of any discretionary deductions available to the Trust under the Tax Act.

5.9 Allocations of Net Income of the Trust and Net Realized Capital Gains for Tax Purposes

In accordance with and to the extent permitted by the Tax Act, the Trustees shall, in each year, make such designations for income tax purposes in respect of amounts paid or payable or deemed to be paid to the Unitholders for such amounts that the Trustees consider to be reasonable in all the circumstances, including designations relating to taxable dividends received or deemed to be received by the Trust in the year on shares of taxable Canadian corporations, if any, and net taxable capital gains of the Trust in the year. Where permitted by the Tax Act, the Trustees shall make designations under the Tax Act so that the amount distributed to a Unitholder but not deducted by the Trust would not be included in the Unitholder's income for

the purposes of the Tax Act. For greater certainty, it is hereby declared that any distributions of Net Realized Capital Gains of the Trust shall include the non-taxable portion of the capital gains of the Trust which are included in such distribution. Unless the Trustees otherwise determine, the proportionate share per Unit of any distribution of both (i) the Net Income of the Trust for a Taxation Year; and (ii) Net Realized Capital Gains; payable to the holders of such Units that is allocated to such holders in respect of each Unit for the purposes of the Tax Act shall be determined by dividing such amount by the number of issued and outstanding Trust Units or Special Voting Units, as the case may be, on the applicable record date in respect of a distribution of Net Income of the Trust and on December 31 in respect of a distribution of Net Realized Capital Gains, in respect of Trust Units, and on December 31 in respect of Special Voting Units. Each Unitholder's share of the amount of any such distribution shall be an amount equal to the proportionate share of each Trust Unit or Special Voting Unit, as the case may be, of such amount multiplied by the number of such Units owned of record by each such Unitholder on such applicable record date or December 31 in the year of such distribution, as the case may be.

5.10 Definitions

Unless otherwise specified or the context otherwise requires, any term in Article 1 and this Article 5 which is defined in the Tax Act shall have for the purposes of Article 1 and this Article 5 the meaning that it has in the Tax Act.

ARTICLE 6
REDEMPTION OF TRUST UNITS

6.1 Right of Redemption

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

6.2 Exercise of Redemption Right

(a) To exercise a Trust Unitholder's right to require redemption under this Article 6, a duly completed and properly executed notice requiring the Trust to redeem Trust Units, in a form reasonably acceptable to the Trustees, shall be sent to the Trust at the head office of the Trust or at any of the principal offices of the Transfer Agent at which it has agreed to act as registrar for Trust Units. No form or manner of completion or execution shall be sufficient unless the same is in all respects satisfactory to the Trustees and is accompanied by any further evidence that the Trustees may reasonably require with respect to the identity, capacity or authority of the person giving such notice.

(b) Upon receipt by the Trust of the notice to redeem Trust Units, the Trust Unitholder shall thereafter cease to have any rights with respect to the Trust Units tendered for redemption (other than to receive the redemption payment therefor) including the right to receive any distributions thereon which are declared payable to the Trust Unitholders of record on a date which is subsequent to the day of

receipt by the Trust of such notice. Trust Units shall be considered to be tendered for redemption on the date that the Trust has, to the satisfaction of the Trustees, received the notice and other required documents or evidence as aforesaid.

(c) All Trust Units which are redeemed under this Article 6 shall be cancelled and such Trust Units shall no longer be outstanding and shall not be reissued.

6.3 Cash Redemption

(a) Subject to Sections 6.4 and 6.5, upon receipt by the Trust of the notice to redeem Trust Units in accordance with Section 6.2, the holder of the Trust Units tendered for redemption shall be entitled to receive a price per Trust Unit (the **"Redemption Price"**) equal to the lesser of:

(i) 90% of the "market price" of the Trust Units on the principal market on which the Trust Units are quoted for trading during the 10 trading day period ending immediately prior to the day on which the Trust Units were surrendered to the Trust for redemption (the **"Redemption Date"**); and

(ii) 100% of the "closing market price" on the principal market on which the Trust Units are listed for trading on the Redemption Date.

For the purposes of Section 6.3(a)(i), "market price" shall be an amount equal to the weighted average of the trading prices of a Trust Unit on the applicable market or exchange for each of the trading days on which there was a trade during the specified trading day period; and provided that if there was trading on the applicable exchange or market for fewer than five of the trading days during the specified trading day period, the "market price" will be the average of the following prices established for each of the trading days during the specified trading period: the average of the last bid and last asking prices of a Trust Unit for each day on which there was no trading and the weighted average trading prices of a Trust Unit for each day that there was trading. For the purposes of Section 6.3(a)(ii), the "closing market price" shall be an amount equal to the closing price of a Trust Unit on the applicable market or exchange if there was a trade on the Redemption Date and the exchange or market provides a closing price; an amount equal to the weighted average of the highest and lowest prices of Trust Units on the applicable market or exchange if there was trading and the exchange or other market provides only the highest and lowest trading prices of Trust Units traded on a particular day; or the weighted average of the last bid and last asking prices of the Trust Units on the applicable market or exchange if there was no trading on the date.

(b) Subject to Sections 6.4 and 6.5, the Redemption Price payable by the Trust in respect of the Trust Units surrendered for redemption during any calendar month shall be satisfied by cheque, drawn on a Canadian chartered bank or a trust company in lawful money of Canada, payable at par to or to the order of the former Unitholder who exercised the right of redemption no later than 30 days after the last day of the calendar month in which the Trust Units are tendered for Redemption. Payments made by the Trust of the Redemption Price are

conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former Unitholder unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder in respect of the Trust Units so redeemed.

6.4 No Cash Redemption in Certain Circumstances

Section 6.3 shall not be applicable to Trust Units tendered for redemption by a Unitholder, if:

(a) the total amount payable by the Trust pursuant to Section 6.3 in respect of such Trust Units and all other Trust Units tendered for redemption in the same calendar month exceeds $50,000 (the **"Monthly Limit"**); provided that the Trustees may, in their sole discretion, waive such limitation in respect of all Trust Units tendered for redemption in any particular calendar month. In the absence of such waiver, Trust Units tendered for redemption in any calendar month in which the total amount payable by the Trust pursuant to Section 6.3(b) exceeds the Monthly Limit will be redeemed for cash pursuant to Section 6.3(b) and, subject to any applicable regulatory approvals, by a distribution *in specie* of securities under Section 6.5 on a pro rata basis;

(b) at the time the Trust Units are tendered for redemption, the outstanding Trust Units are not listed on the Toronto Stock Exchange or traded or quoted on another market which the Trustees consider, in their sole discretion, provides representative fair market value prices for the Trust Units; or

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

6.5 *In Specie* Redemption

If, pursuant to Section 6.4, Section 6.3 is not applicable to Trust Units tendered for redemption by a Trust Unitholder, the price per Trust Unit (**"Redemption Price"**) to which the Trust Unitholder is entitled shall be the fair market value thereof as determined by the Trustees and, subject to any applicable regulatory approvals, shall be paid out and satisfied by way of a distribution *in specie*. In such circumstances, the Trust shall require CSH Trust to redeem Series 1 Trust Notes and CSH Trust Units of a value determined by the Trustees to be equal to the product of the Redemption Price and the number of Trust Units being tendered for redemption (**"Aggregate Redemption Price"**) in consideration for the issuance to the Trust of Series 3 Trust Notes and Series 2 Trust Notes, respectively, with an aggregate principal amount equal to the Aggregate Redemption Price. The Series 2 Trust Notes and Series 3 Trust Notes will then be distributed in satisfaction of the Aggregate Redemption Price. If the aggregate value of the Series 1 Trust Notes and the CSH Trust Units owned by the Trust at the time the Trust Units are tendered for redemption (the "**CSH Trust Value**") is less than the Aggregate Redemption Price, the Trustees shall distribute, in satisfaction of the remainder of the Aggregate Redemption Price,

such other assets of the Trust as determined by the Trustees (including Class A Master LP Units and/or debt owing to the Trust by affiliates of the Trust) that have an aggregate fair market value equal to the difference between the Aggregate Redemption Price and the CSH Trust Value, as determined by the Trustees. No Series 2 Trust Notes or Series 3 Trust Notes in principal amounts of less than $100 will be so distributed and, where the number of such securities of CSH Trust to be received by a Trust Unitholder would otherwise include a principal amount of less than a multiple of $100, that number shall be rounded to the next lowest multiple of $100 and the excess will be paid in cash. The Trust shall be entitled to all interest paid on the CSH Trust Notes or other distributed debt, if any, and distributions paid or payable on the CSH Trust Units or Class A Master LP Units on or before the date of the distribution *in specie*. Where the Trust makes a distribution *in specie* of assets of the Trust on the redemption of Trust Units, some or all of the income of the Trust and the Net Realized Capital Gains of the Trust for the year may, for purposes of computing the Net Income of the Trust and the realized capital gains of the Trust under the Tax Act or other tax legislation be treated as payable in the year by the Trust to the Trust Unitholders redeeming Trust Units in such year and, to the extent of the amount thereof so treated has been designated as taxable capital gains or income to such Trust Unitholders, the holder's redemption proceeds shall be reduced accordingly. Any such amounts shall be determined at the discretion of a majority of the Trustees.

The Redemption Price payable pursuant to this Section 6.5 in respect of Trust Units tendered for redemption during any month shall be paid by the transfer, to or to the order of the Trust Unitholder who exercised the right of redemption, no later than 30 days after the end of the calendar month in which the Trust Units were tendered for redemption (the **"Transfer Date"**), of the Series 2 Trust Notes and Series 3 Trust Notes and other property determined as aforesaid. The Trust shall be entitled to all interest paid on the Series 2 Trust Notes and Series 3 Trust Notes and income paid on other property being transferred up to and including the Transfer Date. Payments by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of the *in specie* distribution of securities and other property by registered mail in a postage prepaid envelope addressed to the former Unitholder and/or any party having a security interest. Upon such payment, the Trust shall be discharged from all liability to the former Trust Unitholder and any party having a security interest in respect of the Trust Units so redeemed.

ARTICLE 7
REDEMPTION OF SPECIAL VOTING UNITS

7.1 Redemption

As Exchangeable Securities are surrendered for Trust Units or redeemed or purchased for cancellation by the Trust or by CSH Trust, the corresponding Special Voting Units shall automatically be redeemed by the Trust for an amount, per each Special Voting Unit, equal to 0.0000001 of the Redemption Price (the **"Special Voting Unit Redemption Amount"**), shall be cancelled and shall no longer be outstanding and shall not be reissued.

ARTICLE 8
TRUSTEES

8.1 Number of Trustees

The number of Trustee shall consist of not less than one and not more than 11 Trustees. The number of Trustees may only be changed within such limits by the Unitholders or, if authorized by the Unitholders, by the Trustees, provided that the Trustees may not, between meetings of the Unitholders, unless otherwise approved by a majority of the Trustees, appoint an additional Trustee if, after such appointment, the total number of Trustees would be greater than one and one-third times the number of Trustees in office immediately following the last annual meeting of the Unitholders.

8.2 Calling and Notice of Meetings

The Trustees may act with or without a meeting. Meetings of the Trustees shall be called and held at such time and at such place in Canada as the Trustees, the Chairman of the Trustees or any two Trustees may determine, and any one Trustee or officer of the trust may give notice of meetings when directed or authorized by such persons. Notice of each meeting of the Trustees shall be given to each Trustee not less than 48 hours before the time when the meeting is to be held, provided that if a quorum of Trustees is present, the Trustees may without notice hold a meeting immediately following an annual meeting of Unitholders. Notice of a meeting of the Trustees may be given verbally, in writing or by telephone, fax or other means of communication. A notice of a meeting of Trustees need not specify the purpose of or the business to be transacted at the meeting. Notwithstanding the foregoing, the Trustees may by resolution from time to time fix a day or days in any month or months for regular meetings of the Trustees at a place and hour to be named, in which case, provided that a copy of such resolution is sent to each Trustee forthwith after being passed and forthwith after each Trustee's appointment, no other notice shall be required for any such regular meeting. A trustee who attends a meeting of Trustees, in person or by telephone, is deemed to have waived notice of such meeting except when the Trustee attends the meeting for the purpose of objecting to the transaction of any business on the grounds 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' Resolutions and any such rules or procedures shall not be inconsistent with this Declaration of Trust.

8.3 Place of Meetings

Meetings of the Trustees may be held at any place in 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.

8.4 Meetings by Telephone

With the consent of the chairman of the meeting or a majority of the other Trustees present at the meeting, a Trustee may participate in a meeting of the Trustees or of a committee

of the Trustees by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other. A Trustee participating in such a meeting in such manner shall be considered present at the meeting and at the place of the meeting.

8.5 Quorum

The quorum for the transaction of business at any meeting of the Trustees shall consist of a majority of the number of Trustees then holding office, 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.

8.6 Chairman

The chairman of any meeting of the Trustees shall be the Trustee present at the meeting who holds the office of Chairman of the Trustees or if such person is not present, the Trustees present shall choose one of their number to be chairman for the purposes of that meeting. The Chairman of the Trustees and the chairman of any meeting of Trustees shall be a Resident and an Independent Trustee.

8.7 Action by the Trustees

At all meetings of the Trustees every question shall be decided by a majority of the votes cast on the question. In the case of equality of votes, the chairman of the meeting shall not be entitled to a second or casting vote. 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.

8.8 Adjourned Meeting

Any meeting of Trustees may be adjourned from time to time by the chairman 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.

8.9 Remuneration and Expenses

The Trustees shall be paid such compensation for their services as the Trustees may from time to time determine. Until otherwise determined, such compensation for each Trustee, who is not also a Director of the General Partner or a trustee, director, officer or employee of CSH Trust or a subsidiary of the Trust, shall be $15,000 per year and $1,000 per meeting for attending each board or committee attended, if attending in person, or, $500 per meeting if attending by conference call, in respect of meetings held on separate occasions from meetings of the Board of Directors of the General Partner and its committees and on separate occasions from meetings of the CSH Trustees. The Trustees shall also be entitled to be reimbursed for reasonable travel and other expenses properly incurred by them in attending meetings of the Trustees or any committee thereof, held on separate occasions, or in connection with their services as Trustees. Nothing

herein contained shall preclude any Trustee from serving the Trust in any other capacity and receiving remuneration therefor. The Trustees shall be eligible to participate in any incentive plan for employees and/or officers adopted by the Trust or Master LP.

8.10 Officers

The Trustees from time to time may appoint one or more officers of the Trust, including without limitation a Chairman of the Trustees, and, may remove any officer of the Trust. The powers and duties of each officer of the Trust shall be those determined from time to time by the Trustees and, in the absence of such determination, shall be those usually applicable to the office held. All officers so appointed shall be Residents.

8.11 Residency of Trustees

A majority of the Trustees must be Residents. If at any time a majority of the Trustees are not Residents or there are no Trustees who are Residents, the Trustee or Trustees who are Non-Residents shall be deemed, immediately before that time, to have resigned and shall cease to be Trustees with effect from the time of such deemed resignation. 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 Sections 9.2 and/or 9.7 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 Unitholders 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 Ontario for an order appointing one or more Trustees so that following such appointment a majority of the Trustees are Residents, to act until the next annual meeting of Unitholders or 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 shall resign as a Trustee effective upon the day of such notification and shall be replaced with a Trustee who is a Resident.

8.12 Independent Trustees

A majority of the Trustees must be Independent Trustees. If at any time a majority of the Trustees are not Independent Trustees because of the death, resignation, bankruptcy, adjudicated incompetence, removal, change in circumstance of any Trustee who was an Independent Trustee or for any other reason set out in Section 9.1, this requirement shall not be applicable for a period of 60 days thereafter, during which period of time the remaining Trustees, whether or not they constitute a quorum, shall appoint a sufficient number of Independent Trustees to comply with this requirement.

ARTICLE 9
APPOINTMENT, RESIGNATION AND REMOVAL OF THE TRUSTEES

9.1 Qualification of Trustees

The following persons are disqualified from being a Trustee of the Trust:

(a) anyone who is less than 18 years of age;

(b) anyone who is of unsound mind and has been so found by a court in Canada or elsewhere;

(c) a person who is not an individual; and

(d) a person who has the status of bankrupt.

Subject to the provisions of Section 8.12, a majority of the Trustees must be Independent Trustees.

9.2 Appointment of Trustees

(a) Subject to Sections 8.11, 8.12 and 9.6, the Initial Trustee is hereby confirmed as the Initial Trustee of the Trust for an initial term of office which, shall expire upon completion of the Closing. The appointment of Victor Durman, Charles Moses and Joseph H. Wright as Trustees upon completion of the Closing is hereby confirmed for a term of office which, subject to Section 9.5, shall expire (subject to further appointment) at the close of the next annual meeting of Unitholders.

(b) Except as otherwise provided herein, Trustees shall be appointed (including the reappointment of incumbent Trustees) at each annual meeting of Unitholders, and may be appointed at a special meeting of Unitholders, in each case to hold office, subject to Section 9.5, for a term expiring at the close of the next annual meeting of Unitholders following such an appointment. Any such appointment shall be made either by a resolution approved by a majority of the votes cast at a meeting of Unitholders or shall be made by resolution in writing in the manner set out in Section 13.14. Notwithstanding the foregoing, if no Trustees are appointed at the annual meeting of Unitholders held immediately before the term of office of the existing Trustees expires, such existing Trustees shall continue to hold the office of Trustees under this Declaration of Trust until successors have been appointed or they cease to hold office.

9.3 Consent to Act

(a) A person who is appointed a Trustee hereunder, other than the Initial Trustee whose consent to act is given by the signature hereto and the persons appointed pursuant to Section 9.2, shall not become a Trustee until the person has, either before or after such appointment, executed and delivered to the Trust a consent substantially as follows:

"To: Chartwell Seniors Housing Real Estate Investment Trust (the **"Trust"**)

And to: The Trustees thereof

The undersigned hereby certifies that he or she 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 made as of July 7, 2003, as amended and restated on November 14, 2003, as amended and restated on July 1, 2005, as amended and restated on November 6, 2006, as amended and restated on July 14, 2008 and as amended and restated on May 21, 2009 and as supplemented, amended and restated from time to time, constituting the Trust.

Dated: _____

_____
[Signature]

_____
[Print Name]"

(b) Except as provided in Section 9.2, upon the later of a person being appointed a Trustee hereunder and executing and delivering to the Trust a consent substantially as set forth in Section 9.3(a), such person shall become a Trustee hereunder and shall be deemed to be a party (as a Trustee) to this Declaration of Trust made as of July 7, 2003, as amended and restated on November 14, 2003, as amended and restated on July 1, 2005, as amended and restated on November 6, 2006, as amended and restated on July 14, 2008 and as amended and restated on May 21, 2009, as supplemented, amended and restated from time to time.

(c) The right, title and interest of the Trustees to control and exclusively administer the Trust and have title in and to the property of the Trust drawn up in their names and all other rights to the Trustees at law shall vest automatically in all individuals who may hereafter become Trustees upon their due election or appointment and qualification (including pursuant to Section 9.3(a)) without any further act, and they shall thereupon have all the rights, privileges, powers, authorities, obligations and immunities of Trustees hereunder, whether or not conveyancing documents have been executed and delivered pursuant to Section 9.5 or otherwise.

9.4 Failure to Elect Minimum Number of Trustees

If a meeting of Unitholders fails to elect the minimum number of Trustees required by this Declaration of Trust by reason of the disqualification or death of any nominee, the Trustees elected at the meeting may, subject to Sections 8.11 and 8.12, exercise all of the powers of the Trustees if the number of Trustees so elected constitutes a quorum.

9.5 Ceasing to Hold Office

(a) A Trustee ceases to hold office when:

(i) he or she dies or resigns;

(ii) he or she is removed in accordance with Section 9.6;

(iii) he or she ceases to be duly qualified to act as a Trustee as provided under Section 9.1; or

(iv) he or she ceases to be a Trustee in accordance with Section 8.11.

(b) A Trustee may resign at any time by an instrument in writing signed by him/her and delivered or mailed to the Chairman of the Trustees or, if there is no Chairman of the Trustees, the President of the Trust. 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 8.11 which shall be effective at the time therein prescribed.

(c) 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 10.11. Upon the resignation or removal of any Trustee, or his/her otherwise ceasing to be a Trustee, s/he shall: (i) cease to have the rights, privileges and powers of a Trustee hereunder; (ii) execute and deliver such documents as the remaining Trustees shall reasonably require for the conveyance of any Trust property held in his/her name; (iii) account to the remaining Trustees as they may require for all property which s/he holds as Trustee; and (iv) resign from all representative or other positions held by him/her on behalf of the Trust, including as a director or officer of any corporation in which the Trust owns any securities (directly or indirectly); upon which s/he shall be discharged from his/her obligations as Trustee. Upon the incapacity or death of any Trustee, his/her legal representative shall execute and deliver on his/her behalf such documents as the remaining Trustees may require as provided in this section. In the event that a Trustee or his/her legal representative, as applicable, is 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.

9.6 Removal of Trustees

The Unitholders may remove any Trustee or Trustees from office by resolution approved by at least 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. Any Trustee or Trustees may be removed from office for cause by resolution passed by not less than two-thirds of the remaining Trustees. Any removal of a Trustee shall take effect immediately following the aforesaid vote or resolution, and any Trustee so removed shall be so notified by the Chair or another officer of the Trust forthwith following such removal. A vacancy created by the removal of a Trustee may be filled at the

meeting of Unitholders at which the Trustee is removed or, if not so filled, may be filled as set forth in Section 9.7.

9.7 Filling Vacancies

No vacancy among the Trustee shall operate to annul this Declaration of Trust or affect the continuity of the Trust. Until vacancies are filled, the remaining Trustee or Trustees (even if less than a quorum) may exercise the powers of the Trustees hereunder. A quorum of Trustees may fill a vacancy among the Trustees, except a vacancy resulting from an increase in the number of Trustees other than in accordance with Section 8.1 or from a failure of the Unitholders to elect the minimum number of Trustees fixed by or pursuant to this Declaration of Trust. Trustees appointed by the Trustees between meetings of the Unitholders or to fill a vacancy, in each case in accordance with Section 8.1 or 9.7, shall be appointed for a term expiring at the conclusion of the next annual meeting or until their successors are elected or appointed and shall be eligible for election or re-election. If there is not a quorum of Trustees, or if the vacancy has arisen from an increase in the number of Trustees other than in accordance with Section 8.1 or from a failure by the Unitholders to elect the minimum number of Trustees required by or pursuant to this Declaration of Trust, the Trustees then in office shall forthwith 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 Sections 9.5 and 9.6, until the close of the next annual meeting of the Unitholders.

9.8 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 10
CONCERNING THE TRUSTEES

10.1 Powers of the Trustees

Subject to the terms and conditions of this Declaration of Trust, the Trustees may exercise from time to time in respect of the Trust's property and the investments and affairs of the Trust any and all rights, powers and privileges that could be exercised by a legal and beneficial owner thereof.

Subject to the specific limitations contained in this Declaration of Trust, the Trustees shall have, without further or other action or consent, and free from any power or control on the part of the Trust Unitholders, full, absolute and exclusive power, control and authority over the assets of the Trust and over the affairs of the Trust to the same extent as if the Trustees were the sole and absolute beneficial owners of the assets of the Trust 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, carrying out the trust created hereunder. In construing the provisions of this Declaration of Trust, the presumption shall be in favour of the granted powers and authority to the Trustees. The enumeration of any specific power or authority herein (including pursuant to Section 10.2) shall not be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustees. To the maximum extent permitted

by law the Trustees shall, in carrying out investment activities, not be in any way restricted by the provisions of the laws of any jurisdiction limited or purporting to limit investments which may be made by trustees. Without limiting the generality of the foregoing, but subject to Sections 4.1, 4.2 and 10.2 and any other express limitations contained in this Declaration of Trust, the Trustees may 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 amended from time to time, including investments in mutual funds, common trust funds, unit trusts and similar types of investment vehicles, to alter or vary such investments from time to time in a like manner, to retain such investments for such length of time as the Trustees, in their discretion determine and to delegate management and authority to discretionary managers of investment funds as the Trustees in their discretion determine appropriate.

10.2 Specific Powers and Authorities

Subject only to the express limitations contained in this Declaration of Trust and in addition to any other 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 at any time and from time to time the following powers and authorities which may or may not be exercised by the Trustees in such manner and upon such terms and conditions as they may from time to time determine proper:

(a) to supervise the activities and manage the investments and affairs of the Trust;

(b) to maintain records and provide reports to Unitholders;

(c) to collect, sue for and receive all sums of money due to the Trust;

(d) to effect payment of distributions to the Unitholders as provided in Article 5;

(e) to invest funds of the Trust as provided in Article 4;

(f) to establish systems to monitor the continued qualification of the Trust as a "registered investment" within the meaning of the Tax Act, and to ensure that Units are not considered "foreign property" for the purposes of the Tax Act and that the Trust is not subject to tax under Part XI of the Tax Act, and if the Trustees become aware by written notice that the beneficial owners of 49% or more of the Trust Units then outstanding are, or may be, Non-Residents or that such situation is imminent, the Trustees shall ensure that the limitations on non resident ownership as provided in Section 14.5 are met;

(g) if the Trustees become aware that Prohibited Transferees (as defined in Section 14.6(a)(iv)) have acquired Units, the Trustees may exercise the rights provided to them in Section 14.6;

(h) to possess and exercise all the rights, powers and privileges pertaining to the ownership of CSH Trust Units, CSH Trust Notes and securities of Trustee Corp. and held by the Trust, to the same extent that an individual might, unless

otherwise limited herein, and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or actions generally or for any particular meeting or action and may include the exercise of discretionary power;

(i) where reasonably required, to engage or employ on behalf of the Trust any persons as agents, representatives, employees or independent contractors (including, without limitation, investment advisors, registrars, underwriters, accountants, lawyers, appraisers, brokers or otherwise) in one or more capacities, and to pay compensation from the Trust for services in as many capacities as such Person may be so engaged or employed;

(j) to elect, appoint, engage or employ officers for the Trust, who may be removed or discharged at the discretion of the Trustees, such officers to have such powers and duties, and to serve such terms as may be prescribed by the Trustees and except as prohibited by law, to delegate any of the powers and duties of the Trustees (including the power of delegation) to any one or more agents, representatives, officers, employees, independent contractors or other persons, including the directors of the General Partner, without liability to the Trustees, except as provided in this Declaration of Trust and without regard to whether such power, authority or duty is normally granted or delegated by Trustees;

(k) to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, disputes, claims, demands or other litigation or proceedings, regulatory or judicial, relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefor, whether or not any suit or proceeding is commenced or claim asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;

(l) to arrange for, out of the assets of the Trust, insurance contracts and policies insuring the Trust, its assets and/or any or all of the Trustees, the Unitholders, Annuitants or officers including against any and all claims and liabilities of any nature asserted by any person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustees or Unitholders, Annuitants or officers;

(m) to cause legal title to any of the assets of the Trust to be held by and/or in the name of a Trustee, or except as prohibited by law, by and/or in the name of the Trust or any other custodian or person, on such terms, in such manner, with such powers in such person as the Trustees may determine and with or without disclosure that the Trust or the Trustee is interested therein; provided, however, that should legal title to any of the Trust's property be held by and/or in the name of any person or persons other than a Trustee or the Trust, the Trustees shall require such person or persons to execute a trust agreement acknowledging that legal title to such assets is held in trust for the benefit of the Trust;

(n) to issue Units for such consideration as the Trustees may deem appropriate in their sole discretion, such issuance to be subject to the terms and conditions of this Declaration of Trust;

(o) to enter into and perform the Trust's obligations under any agreement in connection with, or to facilitate, the issuance of Exchangeable Securities;

(p) to enter into or perform the obligations of the Trust under the Underwriting Agreement and the Administrative Services Agreement;

(q) in addition to the mandatory indemnification provided for in Section 10.11 to the extent permitted by-law to indemnify, or enter into agreements with respect to the indemnification of, any person with whom the Trust has dealings including, without limitation, the Trustees, the Unitholders, Annuitants, the Depository, the Transfer Agent or any escrow agent, to such extent as the Trustees shall determine;

(r) with the approval or confirmation of Unitholders, enact and from time to time amend or repeal by-laws not inconsistent with this Declaration of Trust containing provisions relating to the Trust, the Trust's property and the conduct of the affairs of the Trust, but not in conflict with any provision of this Declaration of Trust;

(s) without limit as to amount, to issue any type of debt securities or convertible debt securities and to borrow money or incur any other form of indebtedness for the purpose of carrying out the purposes of the Trust or for other expenses incurred in connection with the Trust and for such purposes may draw, make, execute and issue promissory notes and other negotiable and non-negotiable instruments or securities and evidences of indebtedness, secure the payment of sums so borrowed or indebtedness incurred and mortgage, pledge, assign or grant a security interest in any money owing to the Trust or its property or engage in any other means of financing the Trust;

(t) to pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Trustees in connection with the Trust's property, undertaking or income of the Trust, or imposed upon or against the Trust's property, undertaking or income of the Trust, or any part thereof and to settle or compromise disputed tax liabilities and for the foregoing purposes to make such returns, take such deductions, and make such designations, elections and determinations in respect of Net Income of the Trust or Net Realized Capital Gains distributed to Unitholders in the year and any other matter as shall be permitted under the Tax Act (provided that to the extent necessary the Trustees will seek the advice of the Trust's counsel or the Auditors), and do all such other acts and things as may be deemed by the Trustees in their sole discretion to be necessary, desirable or convenient;

(u) for such consideration as they deem proper, to invest in, purchase or otherwise acquire for cash or other property or through the issuance of Trust Units or through the issuance of obligations or securities of the Trust and hold for investment, CSH Trust Units, CSH Trust Notes and securities of Trustee Corp.;

(v) to sell, rent, lease, hire, exchange, release, partition, assign, mortgage, pledge, hypothecate, grant security interests in, encumber, negotiate, convey, transfer or otherwise dispose of any or all of the property of the Trust by deeds, trust deeds, assignments, bills of sale, transfers, leases, mortgages, financing statements, security agreements and other instruments for any of such purposes executed and delivered for and on behalf of the Trust by one or more of the Trustees or by a duly authorized officer, employee, agent or any nominee of the Trust; to guarantee, indemnify or act as surety subject to complying with Section 4.2; to lend money or other property of the Trust, whether secured or unsecured; to renew, modify, release, compromise, extend, consolidate or cancel, in whole or in part, any obligation to or of the Trust;

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

(x) to incur and pay out of the property of the Trust any charges or expenses and disburse any funds of the Trust, which charges, expenses or disbursements are, in the opinion of the Trustees, necessary or incidental to or desirable for the carrying out of any of the purposes of the Trust or conducting the affairs of the Trust including taxes or other governmental levies, charges and assessments of whatever kind or nature, imposed upon or against the Trustees in connection with the undertaking or taxable income of the Trust or the property of the Trust or upon or against the undertaking, taxable income or property of the Trust or any part thereof and for any of the purposes herein;

(y) to exercise any conversion privilege, subscription right, warrant or other right or option available in connection with any property of the Trust at any time held by it and to make payments incidental thereto; to consent, or otherwise participate in or dissent from, the reorganization, consolidation, amalgamation, merger or readjustment of the finances of any Person (other than the Trust), any of the securities of which may at any time be held by the Trust or to the sale, mortgage or lease of the property of any such Person; and to do any act with reference thereto, including the delegation of discretionary powers, the exercise of options, the making of agreements or subscriptions and the payment of expenses, assessments or subscriptions which it may consider necessary or advisable in connection therewith;

(z) to determine conclusively the allocation to capital, income or other appropriate accounts for all receipts, expenses, disbursements and property of the Trust;

(aa) to prepare, sign and file or cause to be prepared, signed and filed any prospectus, offering memorandum or similar document, and any amendment thereto and all agreements contemplated therein or ancillary thereto relating to or resulting from any offering of the Trust Units or other securities issued or held by the Trust and to pay the cost thereof and related thereto out of the property of the Trust whether or not such offering is or was of direct benefit to the Trust or those Persons (if any) who were Unitholders immediately prior to such offering;

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

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

(dd) subject to obtaining all required regulatory approvals, to establish one or more distribution reinvestment plans, unit purchase plans, unit option plans or any other unit compensation, incentive plan or similar plan with respect to the Trust Units;

(ee) to grant broad discretion to a third party, including the directors of the General Partner, to administer and manage the day-to-day operations of the Trust and to make executive decisions which conform to the general policies and principles set forth in this Declaration of Trust or otherwise established by the Trustees from time to time;

(ff) to develop the Trust's approach to governance issues and periodically reviewing the composition and effectiveness of the Trustees and to adopt and periodically review and update the Trust's written disclosure policy (which will, among other things, articulate the legal obligations of the Trust and its Subsidiaries and their respective trustees, directors, officers and employees with respect to confidential corporate information; identify spokespersons who are the only persons authorized to communicate with third parties such as analysts, media and investors; provide guidelines on the disclosure of forward looking information; require advance review by the Trustees of any disclosure of financial information to ensure the information is not material, and ensure that selective disclosure of material information is not permitted, and that when it occurs, a news release is issued immediately; and establish "black-out" periods immediately prior to and following the disclosure of quarterly and annual financial results and immediately prior to the disclosure of certain material changes during which the Trust and its Subsidiaries and their respective trustees, directors, officers, employees and consultants may not purchase or sell Units); and

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

10.3 Further Powers of the Trustees

Subject to the provisions hereof, the Trustees shall have the power to prescribe any form provided for or contemplated by this Declaration of Trust and the Trustees may make, adopt, amend or repeal regulations (the **"Trustees' Regulations"**) containing provisions relating to the conduct of the affairs of the Trust, the rights or powers of the Trustees and the rights or powers of the Unitholders or officers of the Trust, 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 the Unitholders. The Trustees shall also be entitled to make any reasonable decisions, designations or determinations not contrary to this Declaration of Trust which it 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 Trustees' Regulations, decisions, designations or determinations made pursuant to this Section shall be conclusive and binding upon all persons affected thereby. The Trustees shall also have such additional powers as may be approved by a resolution of the Unitholders passes at a meeting of Unitholders by a majority of the votes cast at that meeting.

10.4 Limitations on Powers

The Trustees hereby acknowledge that Master LP is bound by certain investment guidelines and operating policies and the Trustees agree that at no time shall they act or cause the Trust to act in such a manner, including without limitation, through voting its units or shares, as applicable, in CSH Trust or Trustee Corp. to effect any changes or amendments to the provisions of Master LP's investment guidelines or operating policies that are parallel to Sections 4.1, 4.2(a), 4.2(c), 4.2(e), 4.2(f) 4.2(g), 4.2(h), 4.2(i), 4.2(j), 4.2(k) and 4.2(l) without the approval of Unitholders by Special Resolution and for any other amendment to such guidelines or policies without the approval of a majority of votes cast at a meeting of Unitholders.

10.5 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 property of the Trust; the execution of any agreement relating to any property of the Trust; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such banker 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 or the General Partner of the Master LP as the Trustees may designate, appoint or authorize from time to time.

10.6 Standard of Care and Duties

The Trustees shall act honestly and in good faith with a view to the best interests of the Trust and the Unitholders and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The Trustees shall not be liable in carrying out their duties under this Declaration of Trust except in cases where the Trustees fail (a) to act honestly and in good faith with a view to the best interests of the Trust and the Unitholders or (b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The duties and standard of care of the Trustees provided as aforesaid are intended to be similar to, and not to be any

greater than, those imposed on a director of a corporation governed by the *Business Corporations Act* (Ontario). Unless otherwise required by law, the Trustees shall not be required to give bond, surety or security in any jurisdiction for the performance of any duties or obligations hereunder. The Trustees shall not be required to devote their entire time to the investments or business or affairs of the Trust.

10.7 Reliance Upon Trustees and Officers

Any person dealing with the Trust in respect of any matters pertaining to the assets of the Trust and any right, title or interest therein or to the Trust or to securities of the Trust shall be entitled to rely on a certificate, statutory declaration or resolution executed or certified by the Trustees or any officer of the Trust appointed by the Trustees as to the capacity, power and authority of the Trustees or any other person to act for and on behalf and in the name of the Trust. No person dealing with the Trustees or officers of the Trust shall be bound to see the application of any funds or property passing into the hands or control of the Trustees or officers of the Trust. The receipt of the Trustees or officers of the Trust for monies or other consideration shall be binding upon the Trust.

10.8 Fees and Expenses

As part of the expenses of the Trust, the Trustees may pay or cause to be paid out of the Trust's 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, securities administrators 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's property.

10.9 Determinations of Trustees Binding

All determinations of the Trustees that are made in good faith with respect to any matters relating to the Trust, including 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 Deferred Income Plan or registered pension fund or plan as defined in the Tax Act, or other similar fund or plan registered under the Tax Act, upon the Annuitants 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.

10.10 Limitations on Liability of Trustees

(a) Subject to Section 10.6, none of the Trustees nor any officers or any agents of the Trust shall be liable to any Unitholder or holder of Exchangeable Securities 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; 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 10.6. 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 10.6 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) Subject to Section 10.6, none of the Trustee nor any officer or agent thereof shall be subject to any liability whatsoever in tort, contract or otherwise, in connection with the Trust's property or the affairs of the Trust, including, without limitation, in respect of any loss or diminution in value of any the Trust's property, to the Trust or to the Unitholders or to any other person for anything done or permitted to be done by the Trustees. 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. 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. 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. The Trust shall be solely liable therefor and resort shall be had solely to the Trust's property for payment or performance thereof.

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's property.

10.11 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's 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 the performance of its duties hereunder, other than in respect of remuneration received by such person for the performance of such duties, 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 any of subsidiaries thereof, provided that a

Trustee, former Trustee, officer or former officer shall not be indemnified out of the Trust's 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 10.6. 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's property, and no Trust Unitholder, Annuitant or other Trustee or officer shall be personally liable to any person with respect to any claim for such indemnity or reimbursement as aforesaid.

10.12 Contractual Obligations of the Trust

In respect of any obligations or liabilities being incurred by the Trust or the Trustees on behalf of the Trust, the Trustees and the Trust shall make all reasonable efforts to include in any written instrument which is, in the judgment of the Trustees, a material obligation as a specific term of such obligations or liabilities a contractual provision or be subject to an acknowledgement to the effect that the obligation being created is not personally binding upon and that resort shall not be had to, nor shall recourse or satisfaction be sought from, by way of lawsuit or otherwise, the private property of any of the Trustees, Unitholders, Annuitants or officers, employees or agents of the Trust, but that only property of the Trust or a specific portion thereof shall be bound. The Trust, however, is not required, but shall use all reasonable efforts, to comply with this requirement in respect of obligations assumed by the Trust upon the acquisition of real property. The omission of such statement from any such document or instrument shall not render the Trustees or the Unitholders or Annuitants liable to any person, nor shall the Trustees or the Unitholders or Annuitants be liable for such omission. If, notwithstanding this provision, the Trustees or any Unitholder or Annuitant 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's property to the full extent of such liability.

10.13 Conflicts of Interest

After Closing, if a Trustee or an officer of the Trust is a party to a material contract or transaction or proposed material contract or transaction with the Trust or its subsidiaries, or is a director or officer or employee 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 its subsidiaries, such Trustee or officer of the Trust, as the case may be, shall disclose in writing to the Trustees or request to have entered in the minutes of meetings of Trustees or a committee of the Trustees, as the case may be, the nature and extent of such interest.

(a) The disclosure required in the case of a Trustee or officer shall be made:

(i) at the meeting of Trustees or a committee of the Trustees, as the case may be, at which a proposed contract or transaction is first considered;

(ii) if the Trustee or officer was not then interested in a proposed contract or transaction, at the first such meeting after he or she becomes so interested;

(iii) if the Trustee or officer becomes interested after a contract is made or a transaction is entered into, at the first meeting after he or she becomes so interested; or

(iv) if a person who is interested in a contract or transaction later becomes a Trustee or officer, at the first such meeting of Trustees after he or she assumes that capacity.

(b) Notwithstanding paragraph (a), 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 in the minutes of meetings of Trustees the nature and extent of his interest forthwith after that person becomes aware of the contract or transaction or proposed contract or transaction.

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

(i) one relating primarily to his or her remuneration as a Trustee, officer, employee or agent of the Trust; or

(ii) one for indemnity under Section 10.11 hereof or for the purchase of liability insurance.

(d) For the purposes hereof, a general notice to the Trustees by a Trustee or an officer of the Trust or any other person referred to in this Section 10.13 disclosing that he or she is a director, officer or employee of or has a material interest in a person and is to be regarded as interested in any contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any contract so made or transaction so entered into. In the event that a meeting of the Unitholders is called to confirm or approve a contract or transaction which is the subject of a general notice to the Trustees, the nature and extent of the interest in the contract or transaction of the Persons giving such general notice shall be disclosed in reasonable detail in the notice calling the said meeting of the 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 any one or more of its Trustees or officers, or between the Trust and another person of which a Trustee or officer of the Trust is a director or officer or in which he or she has a material interest:

(i) the Trustee or officer, as applicable, is not accountable to the Trust or to the Unitholders for any profit or gain realized from the contract or transaction; and

(ii) the contract or transaction is neither void nor voidable;

by reason only of that relationship or by reason only that the Trustee or officer is present at or is counted to determine the presence of a quorum at the meeting of Trustees or committee of Trustees that authorized the contract or transaction, if the Trustee or an officer disclosed his or her interest in accordance with this Section 10.13 and the contract or transaction was reasonable and fair to the Trust at the time it was so approved.

(f) Notwithstanding anything in this section, but without limiting the effect of paragraph (e) hereof, a Trustee or 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 contract or transaction by reason only of holding the office of Trustee or officer, and the contract or transaction, if it was reasonable and fair to the Trust at the time it was approved, is not by reason only of the Trustee's or officer's interest therein void or voidable, where:

(i) the contract or transaction is confirmed or approved at a meeting of Unitholders duly called for that purpose; and

(ii) the nature and extent of the Trustee's or officer's interest in the contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in any information circular required to be provided by this Declaration of Trust or by-law.

(g) Subject to paragraphs (e) and (f) hereof, where, after Closing, any Trustee or officer of the Trust fails to disclose his interest in a material contract or transaction in accordance with this Declaration of Trust or otherwise fails to comply with this section, the Trustees or any Unitholder, in addition to exercising any other rights or remedies in connection with such failure exercisable at law or in equity, may apply to a court for an order setting aside the contract or transaction and directing that the Trustee or officer account to the Trust for any profit or gain realized.

10.14 Conditions Precedent

The obligation of the Trustees to commence or continue any act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding shall be conditional upon sufficient funds being available to the Trustees from the Trust's property to commence or continue such act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding and an indemnity reasonably satisfactory to the Trustees to protect and hold harmless the Trustees against the costs, charges and expenses and liabilities to be incurred therein and any loss and damage 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 it is given an indemnity and funding satisfactory to the Trustees, acting reasonably.

ARTICLE 11
COMMITTEES OF TRUSTEES

11.1 Delegation

Except as prohibited by law, the Trustees may appoint a committee of Directors of the General Partner and may delegate to such committee such authority as the Trustees may in their sole discretion deem necessary or desirable to effect the administration of the duties of the Trustees under this Declaration of Trust, without regard to whether such authority is normally granted or delegated by Trustees, provided that in the case of the Audit Committee and the Compensation Committee, all members shall be Independent Directors of the General Partner and in the case of all other committees, including the Investment Committee, all members shall be Independent Directors of the General Partner or Directors of the General Partner who are not also employees or officers of the Trust or any of its subsidiaries.

11.2 Audit Committee

The Trustees shall appoint an audit committee (the **"Audit Committee"**) to consist of not less than three Directors of the General Partner all of whom shall be Independent Directors of the General Partner and at least one member of whom is a Chartered Accountant.

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

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 comprising such quorum must be Residents. Each committee shall have the power to appoint its chairman 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 or Director of the General Partner, as the case may be. The Trustees may fill vacancies in a committee by appointment from among their members or from Directors of the General Partner. Provided that a quorum is maintained, the committee may continue to exercise its powers notwithstanding any vacancy among its members.

ARTICLE 12
AMENDMENT

12.1 Amendment

Subject to Sections 12.2 and 12.3, the provisions of this Declaration of Trust, except where specifically provided otherwise, may only be amended by the vote of a majority of the

votes cast at a meeting of Unitholders duly called for that purpose; provided that the provisions of this Declaration of Trust may be amended by the Trustees without the consent, approval or ratification of the Unitholders or any other person:

(a) at any time and in any manner prior to the Closing; or

(b) after the Closing for the purpose of:

(i) ensuring continuing compliance with applicable laws (including the Tax Act and maintaining the Trust's status as a "mutual fund trust" and a "registered investment" under the Tax Act), regulations, requirements or policies of any governmental or other authority having jurisdiction over the Trustees, the Trust or over the distribution of Trust Units;

(ii) providing additional protection, in the opinion of the Trustees, for the Unitholders;

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

(iv) making amendments which, in the opinion of the Trustees, are necessary or desirable to remove conflicts or inconsistencies between the disclosure in the Prospectus and this Declaration of Trust;

(v) making amendments which, in the opinion of the Trustees, are necessary or desirable as a result of changes in IFRS (including accounting guidelines) or taxation or other laws or the administration or enforcement thereof;

(vi) enabling the Trust to issue Units for which the purchase price is payable in instalments; or

(vii) any purpose (except one in respect of which a Unitholder vote is specifically otherwise required) if the Trustees are of the opinion that the amendment is not prejudicial to Trust Unitholders and is necessary or desirable,

but notwithstanding the foregoing, no such amendment shall modify the right to vote attached to any Unit or the entitlement to distributions from the Trust provided hereunder (including those provided for in Articles 5 and 15) represented by any Unit without the consent of the Unitholders and no such amendment shall reduce the percentage of votes required to be cast at a meeting of the Unitholders for the purpose of this Section 12.1 without the consent of the holders of all of the Units then outstanding or cause the Trust to fail or cease to qualify as a "mutual fund trust" or "registered investment" under the Tax Act or to be subject to tax under Part XI of the Tax Act or cause the Trust Units to constitute "foreign property" under the Tax Act.

12.2 Two-Thirds Unitholder Vote

No action or authorization and no amendment may be made to this Declaration of Trust with respect to:

(a) the termination of the Trust;

(b) any combination, merger, amalgamation or arrangement of the Trust, CSH Trust or Master LP, as the case may be, any sale of all or substantially all of the assets of the Trust, CSH Trust or Master LP, as the case may be, or the liquidation or dissolution of the Trust, CSH Trust or Master LP, as the case may be, (other than as part of an internal reorganization of the assets of the Trust, CSH Trust or Master LP, as the case may be, as approved by the Trustees);

(c) the provisions of Section 4.1 or the provisions of paragraphs 4.2(a), 4.2(c), 4.2(e), 4.2(f), 4.2(g), 4.2(h), 4.2(i), 4.2(j), 4.2(k) and 4.2(l); or

(d) the provisions of Section 11.2(b) or Section 11.4 of the CSH Trust Declaration;

except in each case with the approval of Unitholders given by the affirmative vote of at least two-thirds of the votes cast at a meeting of Unitholders duly called for that purpose. The remaining provisions of Section 4.2 may be amended with the approval of a majority of the votes cast by Unitholders duly called for that purpose.

12.3 Special Resolution Vote

Notwithstanding Section 12.1, at all times the following amendments to the Declaration of Trust require the approval of at least two-thirds of the votes cast at a meeting of Unitholders duly called for that purpose:

(a) an exchange, reclassification or cancellation of all or part of the Trust Units or Special Voting Units;

(b) the addition, change or removal of the rights, privileges, restrictions or conditions attached to the Trust Units or Special Voting Units and, including, without limiting the generality of the foregoing:

(i) the removal or change of rights to distributions;

(ii) the addition or removal of or change to conversion privileges, options, voting, transfer or preemptive rights; or

(iii) the reduction or removal of a distribution preference or liquidation preference;

(c) the creation of new rights or privileges attaching to certain of the Trust Units or Special Voting Units; or

(d) the constraint on the issue, transfer or ownership of Trust Units or Special Voting Units or the change or removal of such constraint, except as otherwise provided herein.

12.4 Variation of Rights

Except as otherwise provided herein, the rights and restrictions attached to Trust Units and Special Voting Units, respectively, may not be varied or abrogated without the consent of the holders of the outstanding Trust Units or Special Voting Units, as the case may be, by Special Resolution voting separately as a class. There shall not otherwise be class votes of Trust Units or Special Voting Units.

12.5 Changes to Other Documents

The Trust will not agree to or approve any material change to the Master LP Agreement, the CSH Trust Declaration or the Exchange Agreement without approval of at least a two-thirds majority of the votes cast at a meeting of the Unitholders called for that purpose.

12.6 No Termination

No amendment to or amendment and restatement of this Declaration of Trust, whether pursuant to this Article 12 or otherwise, shall be construed as a termination of the Trust and the settlement or establishment of a new trust.

ARTICLE 13
MEETINGS OF UNITHOLDERS

13.1 Annual and Special Meetings of Unitholders

Annual meetings of the Unitholders shall be called, commencing in 2005, on a day on or before June 30 in each year, at a time and at a place in Canada set by the Trustees. The business transacted at such meetings shall include (i) the presentation of the audited financial statements of the Trust for the immediately preceding fiscal year, (ii) the appointment of the Trustees for the ensuing year in accordance with Article 9, (iii) the appointment of Auditors, (iv) directing the Trustees as to the election of nominees of the Trust to serve as CSH Trustees, (v) directing the Trustees as to the election of nominees of the Trust to serve as Directors of the General Partner, and (vi) the transaction of such other business as Unitholders may be entitled to vote upon as hereinafter provided in this Article 13 or as the Trustees may determine. Special meetings of the Unitholders may be called at any time by the Trustees and, except in the circumstances contemplated by Section 105(3) of the *Business Corporations Act* (Ontario), must be called by the Trustees upon a written request of Unitholders holding in the aggregate not less than 10% of the Units then outstanding, such request specifying in reasonable detail the business proposed to be transacted at the meeting. The chairperson of any annual or special meeting shall be the Chairman 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. The Trustees, the officers of the Trust, the Auditors and any other person approved by the Trustees, the chairperson of the meeting or by resolution passed by a majority of the votes cast by Unitholders represented at the meeting may attend meetings of the Unitholders.

13.2 Notice of Meetings

Notice of all meetings of Unitholders shall be given by unregistered mail, postage prepaid, addressed to each Unitholder at his or her last address on the books of the Trust, mailed at least 21 days and not more than 50 days before the meeting. Such notice shall specify the time when, and the place in Canada where, such meeting is to be held and shall specify the nature of the business to be transacted at such meeting in sufficient detail to permit a Unitholder to form a reasoned judgment thereon, together with the text of any Special Resolution, at the time of mailing of the notice, proposed to be passed. Any adjourned meeting, other than a meeting adjourned for lack of a quorum under Section 13.6(b), may be held as adjourned without further notice. The accidental omission to give notice or the non-receipt of such notice by a Unitholder shall not invalidate any resolution passed at any such meeting. Notwithstanding the foregoing, a meeting of Unitholders may be held at any time without notice if all the Unitholders are present or represented thereat (unless the Unitholder or other person attends the meeting for the purpose of objecting to the transaction of any business on the grounds that the meeting is not properly called) 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, and such waiver, whether given before or after the meeting, shall cure any default in the giving of such notice.

13.3 Quorum

At any meeting of the Unitholders, subject as hereinafter provided, a quorum shall consist of two or more individuals present in person either holding personally or representing as proxies not less in aggregate than 25% of the aggregate number of votes attached to all outstanding Units. 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 terminated and, if otherwise called, shall stand adjourned to such day being not less than 7 days later and to such place in Canada and time as may be appointed by the chairperson of the meeting. 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.

13.4 Voting Rights of Unitholders

Only Unitholders of record shall be entitled to vote. On a poll vote at any meeting of Unitholders, each Trust Unit shall entitle the holder or holders of that Trust Unit to one vote, and each Special Voting Unit shall entitle the holder or holders of that Special Voting Unit to the number of votes determined in accordance with Section 3.1(f). 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 meeting of Unitholders, any holder of Units entitled to vote thereat may vote by proxy and a proxy need not be a Unitholder, provided that no proxy shall be voted at any meeting unless it shall have been received by the Transfer Agent for verification at least 24 hours prior to the commencement of such meeting. 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.

13.5 Certain Matters on which Unitholders must Vote

None of the following shall occur unless the same has been duly approved by the Unitholders at a meeting duly called and held:

(a) subject to Sections 8.1, 9.2 and 9.6, a change in the number, the election or removal, of Trustees;

(b) except as provided in Article 18, the appointment or removal of auditors of the Trust;

(c) the appointment of an inspector as provided in Section 13.11;

(d) the exercise of certain voting rights attached to the CSH Trust Units and common shares in Trustee Corp. held by the Trust and to the Class A Master LP Units held by CSH Trust as provided in Sections 10.4 and 13.1; or

(e) any amendment to the Declaration of Trust (except as provided in Section 4.5 or Article 12).

Nothing in this Section, however, shall prevent the Trustees from submitting to a vote of Unitholders at a meeting any matter which they deem appropriate.

13.6 Meaning of "Special Resolution"

(a) The expression "Special Resolution" when used in this Declaration of Trust means, subject to this Article 13, 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 at which two or more individuals present in person either holding personally or representing as proxies not less in aggregate than 20% of the number of votes attached to the Units then outstanding and passed by the affirmative votes of the holders of at least two-thirds of the Units represented at the meeting and voted on a poll upon such resolution.

(b) Notwithstanding Section 13.3, if at any meeting at which a Special Resolution is proposed to be passed the holders of 20% of the aggregate number of votes attached to all outstanding Units are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Unitholders, shall be dissolved, but in any other case it shall stand adjourned to such date, being not less than 21 nor more than 60 days later and to such place in Canada and time as may be appointed by the chairperson of the meeting. Not less than 10 days prior notice shall be given of the time and place of such adjourned meeting in the manner provided in Section 13.2. Such notice shall state that at the adjourned meeting the Unitholders present

in person or by proxy shall form a quorum but it shall not be necessary to set forth the purposes for which the meeting was originally called or any other particulars. At the adjourned meeting, the Unitholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed by the requisite vote as provided in Section 13.6(a) shall be a Special Resolution within the meaning of this Declaration of Trust, notwithstanding that the holders of less than 20% of the aggregate number of Units then outstanding are present in person or by proxy at such adjourned meeting.

(c) 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.

(d) For the purpose of a separate class vote by the holders of Trust Units or Special Voting Units as a class as provided herein, the expression "Special Resolution" means a resolution proposed to be passed at a separate meeting of holders of Trust Units or Special Voting Units, as the case may be, at which meeting the provisions of this Article 13 shall apply *mutatis mutandis*.

13.7 Meaning of "Outstanding"

Subject to the provisions of Article 14, every 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 deemed not to be outstanding pursuant to Sections 14.5 and 14.6 and Units owned directly or indirectly, legally or equitably, by the Trust, CSH Trust, Master LP or any affiliate 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 deemed or owned shall be so disregarded; and

(ii) Units so owned which have been pledged in good faith other than to the Trust, CSH Trust, Master LP 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, CSH Trust, Master LP or any affiliate thereof;

(c) for the purposes of Section 13.7(b), CSH Trust and Master LP shall provide a certificate which will state the number of Units and the certificate numbers of Unit Certificates, if such certificates are issued, of the Trust, which are held by CSH Trust, Master LP or any affiliate thereof. The Trustees shall be entitled to rely on such certificates in order to disregard the votes of any of the parties mentioned above.

13.8 Record Date for Voting

For the purpose of determining the Unitholders who are entitled to vote or act at any meeting or any adjournment thereof, the Trustees may fix a date not more than 60 days and not less than 21 days prior to the date of any meeting of Unitholders as a record date for the determination of Unitholders entitled to vote at such meeting or any adjournment thereof, 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 the Unitholder has since that time disposed of his or her Units, and no Unitholder becoming such after that time shall be so entitled to vote at such meeting or any adjournment thereof, unless the Trustees determine otherwise. In the event that the Trustees do not fix a record date for any meeting of Unitholders, the record date for such meeting shall be the date upon which notice of the meeting is given as provided under Section 13.2.

13.9 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. The instrument appointing a proxy must be in writing and either substantially in a form which may be approved by the Trustees acting reasonably or as may be satisfactory to the chairman of the meeting at which it is sought to be exercised. The instrument of proxy must be executed by the Unitholder giving the proxy or his or her agent duly authorized in writing and, if given on behalf of joint holders, must be executed by all of them and may be revoked by any of them, and, if given by a Unitholder which is a body corporate, must be executed on its behalf by a person duly authorized in writing. Any person may be appointed a proxy, whether or not that person is a Unitholder. The Trustees, on behalf of the Trust, may solicit instruments of proxy from the Unitholders or any of them in respect of any matter requiring or permitting the Unitholders' vote or consent. An instrument of proxy shall be deposited with the chairman of the meeting before any vote is cast under its authority or at such earlier time or in such manner as the Trustees may prescribe from time to time.

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 chairman of the meeting at which the instrument is proposed to be used, that the instrument of proxy is invalid. Any decision of the chairman 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 of the Unitholder or

revocation of the proxy has been received by the chairman of the meeting prior to the time the vote is cast.

13.10 Personal Representatives

Subject to the provisions of Article 14, 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 the Unitholder 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 13.4 relating to joint holders shall apply.

13.11 Appointment of Inspector

The Trustees shall call a meeting of Unitholders upon the written request of Unitholders holding in the aggregate not less than 25% of the Units then outstanding for the purpose of considering the appointment of an inspector to investigate the performance by the Trustees of their responsibilities and duties in respect of the Trust. An inspector may be appointed for such purpose, at the expense of the Trust, at such meeting by a resolution approved by a majority of the votes cast at the meeting.

13.12 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 Chairman of the meeting and such rules and procedures shall be binding upon all parties participating in the meeting.

13.13 Binding Effect of Resolutions

Every resolution passed at a meeting in accordance with the provisions of this Article 13 shall be binding upon all Unitholders, whether present at or absent from the meeting. Subject to Section 13.5, no action taken by Unitholders at any meeting of Unitholders shall in any way bind the Trust or the Trustees without the approval of the Trustees.

13.14 Resolution in Lieu of Meeting

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

13.15 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 13.

ARTICLE 14
CERTIFICATES, REGISTRATION AND TRANSFER OF UNITS

14.1 No Alteration

(a) The provisions of this Article 14 shall not in any way alter the nature of the Units or the relationships of a Unitholder to the Trustees and of one Unitholder to another but are intended only to facilitate the issuance of certificates evidencing the ownership of Trust Units if desirable to issue them to Trust Unitholders and the recording of all transactions in respect of Trust Units and Unit Certificates whether by the Trust, securities dealers, stock exchanges, transfer agents, registrars or other persons. Trust Units shall be issued in the form of the Unit Certificate provided, however, that a global Unit Certificate (a **"Global Unit Certificate"**) may be issued in the name of and deposited by the Transfer Agent with, or on behalf of, CDS or a successor (collectively, the **"Depository"**), as custodian of such Global Unit Certificate and registered by the Transfer Agent in the name of the Depository or its nominee. Unless the Trust elects, in its sole discretion, to prepare and deliver Unit Certificates, beneficial owners who are not CDS Participants shall purchase, sell or otherwise transfer ownership of or other interest in Trust Units and Unit Certificates through participants in the Depository's book-entry system. No purchaser of Trust Units represented by a Global Unit Certificate will be entitled to a certificate or other instrument from the Trust or the Depository evidencing that purchaser's ownership thereof except in the circumstances where the Depository resigns or is removed from its responsibilities as depository and the Trustee is unable or does not wish to locate a qualified successor. Beneficial interests in a Global Unit Certificate will be represented only through the Book-Entry System. Transfers of Trust Units between CDS Participants shall occur in accordance with the Depository's rules and procedures.

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

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

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

(e) No holder of a Special Voting Unit shall be entitled to a certificate or other instrument from the Trust evidencing the holder's ownership of such units. Such holder shall only be entitled to be entered on the Register in accordance with Section 14.4.

14.2 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;

(ii) be dated as of the date of issue thereof;

(iii) contain the CUSIP number for the Trust Units; and

(iv) 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 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.

14.3 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 created by a Declaration of Trust made on the 7th day of July, 2003, as amended and restated on November 14, 2003 and supplemented, amended and amended and restated from time to time" or words of like effect;

(ii) the name of the person to whom the Unit Certificate is issued as Trust Unitholder;

(iii) the number of Trust Units represented thereby and whether or not the Trust Units represented thereby are fully paid;

(iv) that the Trust Units represented thereby are transferable subject to Article 14 of the Declaration of Trust;

(v) "The Trust 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 Trust 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 Trust 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 Trust Unitholder or annuitant or beneficiary of a trust governed by a registered retirement savings plan, a registered retirement income fund, a registered education savings plan or a deferred profit sharing plan or any other plan of which a Trust Unitholder acts as trustee or carrier 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 Trust Units.

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

14.4 Register of Unitholders

A register (the **"Register"**) shall be kept at the principal stock transfer office in Toronto, Ontario of the Transfer Agent, which Register shall contain the names and addresses of the Unitholders, the respective numbers of Units, and type of Units, held by them, the certificate numbers of certificates representing such Units, if any, and a record of all transfers and redemptions thereof. Branch transfer registers shall be maintained at such other offices of the Transfer Agent as the Trustees may from time to time designate. Only Unitholders whose Units or 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. Subject to Sections 14.1, 14.5 and 14.6, upon any issue of Units, the name of the subscriber shall be promptly entered on the Register as the owner of the number of Units issued to such subscriber, or if the subscriber is already a Unitholder, the Register shall be amended to include his/her additional Units.

14.5 Limitation of Non Resident Ownership

(a) Non-Residents shall not be the beneficial owners, directly or indirectly, of more than 49% of all outstanding Trust Units. The Trustees may require declarations as to the jurisdictions in which beneficial owners of Units are resident. If the Trustees become aware that the beneficial owners of 49% of the Trust Units then outstanding are, or may be, Non-Residents or that such a situation is or may be imminent, the Transfer Agent shall make a public announcement thereof and shall not accept a subscription for Trust Units from or issue or register a transfer of Trust Units to a person unless the person provides a declaration in form and content satisfactory to the Trustees that the person is not a Non-Resident. If, notwithstanding the foregoing, the Trustees determine that more than 49% of the Trust Units are held or beneficially-owned by Non-Residents, the Trustees may send a notice to Non-Resident holders of Trust 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 or redeem their Trust Units or a portion thereof within a specified period of not less than 60 days. If the Trust Unitholders receiving such notice have not sold or redeemed the specified number of Trust Units or provided the Trustees with satisfactory evidence that they are not Non-Residents within such period, the Trust may, on behalf of such Trust Unitholders, sell or redeem such Trust Units and, in the interim, shall suspend the voting and distribution rights attached to such Trust Units. Upon such sale or redemption, the affected holders shall cease to be holders of Trust Units and their rights shall be limited to receiving the net proceeds of sale or redemption upon surrender of the certificates representing such Trust Units. The Trustees shall have no liability for any amount received provided that the Trustees acted in good faith.

(b) Subject to Section 10.6, unless and until the Trustees shall have been required to do so under the terms hereof, the Trustees shall not be bound to do or take any proceeding or action with respect to this Section 14.5 by virtue of the powers conferred on them hereby. The Trustees shall not be deemed to have notice of any violation of this Section 14.5 unless and until they have been given written notice of such violation and shall act only as required by this Declaration of Trust once an indemnity is provided. The Trustees shall not be required to actively monitor the holdings of Non-Residents in the Trust. It is acknowledged that the Trustees may not be able to monitor the Non-Resident holders of Trust Units that are or may be registered in the name of CDS. The Trustees shall not be liable for any violation of the non resident ownership restriction which may occur during the term of the Trust.

(c) Special Voting Units shall not be held by or for the benefit of Non-Residents. Each Special Voting Unitholder is deemed to have represented to the Trustees that it is not and does not hold such units for behalf of a Non-Resident and will be deemed to have covenanted to maintain such representation true for as long as it continues to hold one or more Special Voting Units. If the Trustees determine that a Person has purported to become or remain, directly or indirectly, a holder of Special Voting Units in breach of the above mentioned representations or covenant, or if the Special Voting Unitholder fails to provide a declaration in form and content satisfactory to the Trustees that it is not a Non-Resident and does not hold such Units for the benefit of Non-Resident, (i) the Trustees will inform the General Partner of Master LP (or such other Person who controls the entity which issued the Exchangeable Securities to which such Special Voting Units relate) and require such Person to effect, forthwith, a transfer of such securities and units to a Person who does not contravene the above mentioned limitation on ownership (**"New Holder"**) in accordance with the terms of the Master LP Limited Partnership Agreement or other document governing the issue and terms of exchange of the Exchangeable Securities to which such Special Voting Units relate; and (ii) effective immediately prior to the breach, such Person shall be deemed to have ceased to be a holder of such Special Voting Units, the voting and distribution rights attached to such Special Voting Units shall be suspended and such Special Voting Units shall be deemed not to be outstanding until acquired by a Person who does not contravene the above mentioned limitation on ownership (provided that holders of other Special Voting Units shall not be entitled to any portion of the distributions that may have been paid in respect of Special Voting Units that have been so deemed not to be outstanding). If the General Partner of Master LP (or such other Person who controls the entity which issued the Exchangeable Securities to which such Special Voting Units relate) does not effect a transfer of such securities and units to a New Holder in accordance with the terms of the relevant agreement, the Trustees shall redeem such Special Voting Units for an amount, per each Special Voting Unit, equal to the Special Trust Unit Redemption Amount, and such units shall be cancelled, shall no longer be outstanding and may not be reissued, and the Trustees shall have the power of attorney of such Unitholder to do so.

(d) Where the exercise of the Exchange Right in respect of Class B Master LP Units by a holder thereof would result in more than 49% of the Trust Units being held or beneficially owned by Non-Residents or otherwise jeopardize the Trust's status as a "unit trust", "mutual fund trust" or "registered investment" under the Tax Act, the Trust shall issue the Trust Units to be distributed by Master LP to the holder of Class B Master LP Units in satisfaction of such holder's exercise of the Exchange Right in the name of Master LP and then immediately sell such Trust Units on behalf of Master LP and pay the proceeds of such sale to, or to the direction of, Master LP in full satisfaction of the Trust's obligations in respect of the exercise of the Exchange Right by the holder of Class B Master LP Units in respect of such Class B Master LP Units. The Trustees shall have a power of attorney of the General Partner of Master LP to do so.

(e) The Trustees shall have the sole right and authority to make all determinations necessary for the administration of the provisions of this Section 14.5 and, without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a contravention of the ownership restrictions set forth in this Section 14.5 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. In any situation where it is unclear whether Units are held by or for the benefit of Non-Residents, the Trustees may exercise their discretion in determining whether such Units are or are not so held, and any such exercise by the Trustees of their discretion shall be binding for the purposes of this Section 14.5. Notwithstanding the foregoing, the Trustees may delegate, in whole or in part, their power to make a determination in this respect to any officer of the Trust.

14.6 Restrictions on Ownership by Certain Parties

(a) In this Section 14.6:

(i) **"Arrangement and Purchase Agreement"** means the agreement made as of September 15, 2003 among, TD Capital Group Limited, HRC Alert Investors Limited Partnership, Alert Acquisition Corp., Eclipse Capital Corporation, Alert Holdings Corp., Robert I. Ezer, Leslie Veiner, Alert Care Corporation, 1572879 Ontario Limited, 2032053 Ontario Inc. and Chartwell Care Corporation.

(ii) **"Arrangement Closing"** means the completion of the transactions contemplated by the Arrangement and Purchase Agreement.

(iii) **"Barton Group"** means the group of persons consisting of Janet Barton, the Estate of Wayne Barton, Braeburn Capital Corporation, the shareholders of Braeburn Capital Corporation, Brading Investments Ltd. and the shareholders of Brading Investments Ltd.

(iv) **"Prohibited Transferee"** means:

(A) any direct or indirect beneficial owner of issued and outstanding securities of Alert Care Corporation and Eclipse Capital Corporation immediately prior to the Arrangement Closing including (i) TD Capital Group Limited; (ii) Norman Smith; (iii) each member of the Barton Group; (iv) any person that is a partner in the HRC Alert Investors Limited Partnership; (v) any person who, at a time prior to the Arrangement Closing, is a shareholder of Eclipse Capital Corporation (other than Norman Smith or a member of the Barton Group) or a partner of HRC Alert Investors Limited Partnership other than a partner referred to in (iv) above; (vi) any person, who at any time prior to the indirect acquisition of Ballycliffe Lodge Limited by the Trust, is directly or indirectly in any manner whatsoever a shareholder of Ballycliffe Lodge Limited; (vii) a person that is a corporation of which any person referred to in (i), (ii), (iii), (iv) or (vi) above owns 10% or more of any class of shares of the corporation, or in which any one or more of the persons referred to in (i) through (vi) above inclusive, in the aggregate, owns 10% of more of the shares of any class of the corporation) and any other person who, as a result of the acquisition of Units by that person, would cause the partnership interests owned by Alert Care Corporation, after the Arrangement Closing, to be ineligible property within the meaning of paragraph 88(1)(c) of the Tax Act, save and except for Robert I. Ezer, Leslie Veiner, the other shareholders of Alert Holdings Corp. and such other Persons as the Trustees may, in their discretion, determine provided that the Trustees have received advice indicating that such determination is prudent in the circumstances;

(B) a person related to or considered not to be dealing at arm's length within the meaning of the Tax Act with any person referred to in Section 14.6(a)(iv)(A); and

(C) any affiliate, associate, insider, partner or subsidiary of any person or of any group of persons referred to in Sections 14.6(a)(iv)(A) and (iv)(B).

(v) **"Restricted Period"** means the period of two years immediately following the date of the Arrangement Closing.

(vi) **"TD Bank Group"** means:

(A) The Toronto-Dominion Bank (the **"Bank"**);

(B) any affiliate of the Bank;

(C) any corporation that is directly or indirectly controlled by or otherwise related within the meaning of the Tax Act to the Bank;

(D) any mutual fund, closed-end fund, pooled fund, trust, limited partnership or other investment vehicle (whether or not the entity is a reporting issuer in any province or territory in Canada) that is managed or advised by TD Asset Management Inc. or any of its affiliates;

(E) any person considered not to be dealing at arm's length within the meaning of the Tax Act with any person referred to in Sections 14.6(a)(iv)(A), (vi)(B), (vi)(C) and (vi)(D);

save and except for any person acting for and on behalf of a Third Party Investment Account and not for its own account; and

(vii) **"Third Party Investment Account"** means any client investment account held with TD Securities Limited, TD Asset Management Inc., TD Investment Management Inc. or any of their respective affiliates or associates for or on behalf of a client other than a client that is a Prohibited Transferee or a person described in Section 14.6(a)(v).

(b) Notwithstanding any other provision in this Declaration of Trust, no Units shall be issued, or exchanged, assigned or transferred, to a Prohibited Transferee during the Restricted Period. No Prohibited Transferee shall in any circumstances during the Restricted Period acquire, hold or own a Unit or, subject to the express terms of this Declaration of Trust, be entitled to any of the rights, privileges, benefits or legal or equitable interests which may attach to or be associated with any such Unit.

(c) If at any time during the Restricted Period, a Prohibited Transferee purports to acquire one or more Units (**"Prohibited Units"**),

(i) the Prohibited Transferee shall be deemed to have not acquired any legal or beneficial interest in such Prohibited Units, such purported acquisition shall be deemed to be *void ab initio* and the Prohibited Transferee shall be deemed to hold at all times the Prohibited Units as agent and in trust for the Trustees. All monies received, actions taken and rights exercised by such Prohibited Transferee in respect of such Prohibited Units shall be deemed to have been received and belong to, and have been taken or exercised on behalf of, the Trustees, and any votes cast by a Prohibited Transferee attaching to Prohibited Units shall be treated as votes cast on behalf of and for the benefit of the Trustees;

(ii) if the Trustees determine (a **"Determination"**) that a Prohibited Transferee holds during the Restricted Period, as agent and in trust for the Trustees, one or more Prohibited Units, (a) to the extent that the Prohibited Units are held by such Prohibited Transferee at the time of the Determination, the Trustees shall forthwith cancel the Prohibited Units without any consideration, payment or compensation to the Prohibited Transferee and the Trustees shall notify the Transfer Agent of such cancellation; and (b) whether or not the Prohibited Transferee holds, as

agent and in trust for the Trustees, the Prohibited Units at the time of the Determination, the Trustees shall have the right to claim from the Prohibited Transferee for the benefit of the Trustees all distributions or other payments or amounts received by the Prohibited Transferee on or in connection with the Prohibited Units, and, if the Prohibited Transferee shall have disposed of the Prohibited Units, the Trustees shall have the right to claim from the Prohibited Transferee for the benefit of the Trustees any and all proceeds of disposition of the Prohibited Units, if any, received by such Prohibited Transferee.

(iii) where a Prohibited Transferee has transferred or purported to transfer Prohibited Units to a person who is neither a Prohibited Transferee nor, if such transfer occurs during the 60 day period immediately following the date of the Arrangement Closing, a person within the TD Bank Group, such Units shall not be Prohibited Units in the hands of such transferee and the rights of such transferee as a Unitholder hereunder shall not be affected by this Section 14.6;

(iv) any action taken by the Trustees in reliance on a vote of Unitholders shall not be invalidated or otherwise affected by the exercise by a Prohibited Transferee of any voting rights attaching to Prohibited Units;

(v) the Trustees shall not be obligated to but shall be entitled to, and may, take any action the Trustees, in their sole discretion, deem advisable and practicable in the circumstances to recover any amounts received by a Prohibited Transferee in connection with Prohibited Units, including but not limited to amounts referred to in (ii) above.

(d) The Trustees shall have the sole right and authority to make any determination required for the administration of the provisions of, or contemplated under, this Section 14.6, and without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a Prohibited Transferee holds Prohibited Units within the Restricted Period, the Trustees shall make a determination with respect to the matter. Any such determination shall be conclusive, final and binding for the purposes of this Section 14.6 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.

(e) No Prohibited Transferee shall have any right enforceable against the Trustees, the assets of the Trust or any other Unitholder arising out of or in connection with anything done in good faith or occurring under or pursuant to this Section 14.6, and each Prohibited Transferee shall conclusively be deemed to have agreed to indemnify the Trustees in respect of any liability the Trustees or any of them may incur as a result or in consequences of the Prohibited Transferee purporting to acquire Prohibited Units.

(f) Notwithstanding any other provision in this Declaration of Trust, no Units shall be issued, or exchanged, assigned or transferred, to any person within the TD

Bank Group during the 60 day period immediately following the date of the Arrangement Closing. No person within the TD Bank Group shall in any circumstances during the 60 day period immediately following the date of the Arrangement Closing acquire, hold or own a Unit or, subject to the express terms of this Declaration of Trust, be entitled to any of the rights, privileges, benefits or legal or equitable interests which may attach to or be associated with any such Unit. If at any time during the 60 day period immediately following the date of the Arrangement Closing, a person within of the TD Bank Group purports to acquire a Unit, such Unit shall be deemed to be a Prohibited Unit and such Prohibited Unit shall be subject to and governed by the provisions of Section 14.6(c) and the provisions of Sections 14.6(c), (d) and (e) shall apply, *mutatis mutandis*, to such Prohibited Unit and to the person within the TD Bank Group purporting to acquire the Unit during this period.

14.6A Restrictions on Ownership by Certain Other Parties

(a) In this Section 14.6A:

(i) **"Prohibited Transferee"** means.

(A) any direct or indirect beneficial owner of issued and outstanding common shares of CPAC (Care) Holdings Ltd.;

(B) a person related to or considered not to be dealing at arm's length within the meaning of the Tax Act with any person referred to in Section 14.6A(a)(i)(A); and

(C) any affiliate, associate, insider, partner or subsidiary of any person or of any group of persons referred to in Sections 14.6A(a)(i)(A) and (a)(i)(B).

(ii) **"Restricted Period"** means the period from July 5, 2005 to and including July 31, 2007.

(b) Notwithstanding any other provision in this Declaration of Trust, no Units shall be issued, or exchanged, assigned or transferred, to a Prohibited Transferee during the Restricted Period. No Prohibited Transferee shall in any circumstances during the Restricted Period acquire, hold or own a Unit or, subject to the express terms of this Declaration of Trust, be entitled to any of the rights, privileges, benefits or legal or equitable interests which may attach to or be associated with any such Unit.

(c) If at any time during the Restricted Period, a Prohibited Transferee purports to acquire one or more Units (**"Prohibited Units"**):

(i) the Prohibited Transferee shall be deemed to have not acquired any legal or beneficial interest in such Prohibited Units, such purported acquisition shall be deemed to be void ab initio and the Prohibited Transferee shall be deemed to hold at all times the Prohibited Units as agent and in trust for

the Trustees. All monies received, actions taken and rights exercised by such Prohibited Transferee in respect of such Prohibited Units shall be deemed to have been received and belong to, and have been taken or exercised on behalf of, the Trustees, and any votes cast by a Prohibited Transferee attaching to Prohibited Units shall be treated as votes cast on behalf of and for the benefit of the Trustees;

(ii) if the Trustees determine (a **"Determination"**) that a Prohibited Transferee holds during the Restricted Period, as agent and in trust for the Trustees, one or more Prohibited Units, (a) to the extent that the Prohibited Units are held by such Prohibited Transferee at the time of the Determination, the Trustees shall forthwith cancel the Prohibited Units without any consideration, payment or compensation to the Prohibited Transferee and the Trustees shall notify the Transfer Agent of such cancellation; and (b) whether or not the Prohibited Transferee holds, as agent and in trust for the Trustees, the Prohibited Units at the time of the Determination, the Trustees shall have the right to claim from the Prohibited Transferee for the benefit of the Trustees all distributions or other payments or amounts received by the Prohibited Transferee on or in connection with the Prohibited Units, and, if the Prohibited Transferee shall have disposed of the Prohibited Units, the Trustees shall have the right to claim from the Prohibited Transferee for the benefit of the Trustees any and all proceeds of disposition of the Prohibited Units, if any, received by such Prohibited Transferee;

(iii) any action taken by the Trustees in reliance on a vote of Unitholders shall not be invalidated or otherwise affected by the exercise by a Prohibited Transferee of any voting rights attaching to Prohibited Units;

(iv) the Trustees shall not be obligated to but shall be entitled to, and may, take any action the Trustees, in their sole discretion, deem advisable and practicable in the circumstances to recover any amounts received by a Prohibited Transferee in connection with Prohibited Units, including but not limited to amounts referred to in (ii) above.

(d) The Trustees shall have the sole right and authority to make any determination required for the administration of the provisions of, or contemplated under, this Section 14.6A, and without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a Prohibited Transferee holds Prohibited Units within the Restricted Period, the Trustees shall make a determination with respect to the matter. Any such determination shall be conclusive, final and binding for the purposes of this Section 14.6A 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.

(e) No Prohibited Transferee shall have any right enforceable against the Trustees, the assets of the Trust or any other Unitholder arising out of or in connection with anything done in good faith or occurring under or pursuant to this Section 14.6A,

and each Prohibited Transferee shall conclusively be deemed to have agreed to indemnify the Trustees in respect of any liability the Trustees or any of them may incur as a result or in consequences of the Prohibited Transferee purporting to acquire Prohibited Units.

14.7 Lost Certificates

In the event that any Unit Certificate for Trust Units is lost, stolen, destroyed or mutilated, the Trustees may authorize the issuance of a new Unit Certificate for the same number of Trust Units in lieu thereof. The Trustees may in their sole 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 an affidavit or statutory declaration setting forth such facts as to the loss, theft, destruction or mutilation as the Trustees may deem necessary, to surrender any mutilated certificate and to require the applicant to supply to the Trust a "lost certificate bond" or a similar bond in such reasonable sum as the Trustees or the Transfer Agent may direct indemnifying the Trust for so doing.

14.8 Take Over Bid

(a) In this Section 14.8:

(i) **"Dissenting Unitholder"** means a Trust Unitholder who does not accept an Offer referred to in Section 14.8(d) and includes any assignee of the Trust Unit of a Unitholder to whom such an Offer is made, whether or not such assignee is recognized under this Declaration of Trust;

(ii) **"Offer"** means an offer to acquire Outstanding Trust Units where, as of the date of the offer to acquire, the Trust Units that are subject to the offer to acquire, together with the Offeror's Trust Units, constitute in the aggregate 20% or more of all outstanding Trust Units;

(iii) **"offer to acquire"** includes an acceptance of an offer to sell;

(iv) **"Offeror"** means a person, or two or more persons acting jointly or in concert, who make an Offer;

(v) **"Offeror's Notice"** means the notice described in Section 14.8(d); and

(vi) **"Offeror's Trust Units"** means Trust Units beneficially owned, or over which control or direction is exercised, on the date of an Offer by the Offeror, any affiliate or associate of the Offeror or any person or company acting jointly or in concert with the Offeror.

(b) In the event an Offer for all of the outstanding Trust Units is made, any holder of Exchangeable Securities, including the Class B Master LP Units, may, unless prohibited by the terms and conditions of the Exchangeable Security, convert, exercise or exchange such Exchangeable Security, as applicable, for the purpose of tendering Trust Units to such Offer on the condition that such Trust Units are taken up under such Offer, unless an identical offer (in terms of price per Trust

Unit issuable upon the conversion, exercise or exchange of the Exchangeable Security and percentage of outstanding securities to be taken up exclusive of securities owned immediately prior to the offer by the Offeror, or associates or affiliates of the Offeror and in all other material respects) is made concurrently by the Offeror to purchase the Exchangeable Securities, which identical offer has no condition attached other than the right not to take up and pay for securities tendered if no securities are purchased pursuant to the Offer for Trust Units. In the event that a holder of Exchangeable Securities elects to conditionally convert, exercise or exchange such Exchangeable Securities for the purpose of tendering Trust Units to such Offer, the tendering of a certificate issued by the Trust indicating that the Trust Units are issuable upon and subject to completion of the Offer shall be good delivery under such Offer and after payment of the consideration therefor to the former holder of the Exchangeable Securities such holder shall cease to have any rights as a holder of Exchangeable Securities, Special Voting Units or Trust Units to the extent that the Trust Units issuable upon the conversion, exercise or exchange of such Exchangeable Securities have been taken up by the Offeror. For the purposes of the remainder of this Section 14.8, unless the identical Offer referred to above is made, a reference to "Trust Units" will be deemed to include Trust Units issuable upon the conversion of Exchangeable Securities.

(c) If an Offer for all of the outstanding Trust Units (other than Trust Units held by or on behalf of the Offeror or an affiliate or associate of the Offeror) is made and, by such Offer, the Offeror agrees to be bound by the provisions of this Section 14.8, and:

(i) if within 120 days after the date of the Offer, the Offer is accepted by Unitholders representing at least 90% of the outstanding Trust Units, other than the Offeror's Trust Units;

(ii) the Offeror is bound to take up and pay for, or has taken up and paid for the Trust Units of the Unitholders who accepted the Offer; and

(iii) the Offeror complies with Sections 14.8(d) and 14.8(f);

the Offeror is entitled to acquire, and the Dissenting Unitholders are required to sell to the Offeror, the Trust Units held by the Dissenting Unitholders for the same consideration per Trust Unit payable or paid, as the case may be, under the Offer.

(d) Where an Offeror is entitled to acquire Trust Units held by a Dissenting Unitholder pursuant to Section 14.8(c), and the Offeror wishes to exercise such right, the Offeror shall send by registered mail within 30 days after the date of termination of the Offer a notice (the **"Offeror's Notice"**) to each Dissenting Unitholder stating that:

(i) Unitholders holding at least 90% of the Trust Units of all Unitholders, other than Offeror's Trust Units, have accepted the Offer;

(ii) the Offeror is bound to take up and pay for, or has taken up and paid for, the Trust Units of the Unitholders who accepted the Offer;

(iii) Dissenting Unitholders must transfer their respective Trust Units to the Offeror on the terms on which the Offeror acquired the Trust Units of the Unitholders who accepted the Offer within 21 days after the date of the sending of the Offeror's Notice; and

(iv) Dissenting Unitholders must send their respective Unit Certificate(s) (or, in the case of Exchangeable Securities, the certificates representing such Exchangeable Securities) to the Trust within 21 days after the date of the sending of the Offeror's Notice.

(e) A Dissenting Unitholder to whom an Offeror's Notice is sent pursuant to Section 14.8(d), shall, within 21 days after the sending of the Offeror's Notice, send his or her Unit Certificate(s) (or, in the case of Exchangeable Securities, the certificates representing such Exchangeable Securities) to the Trust, duly endorsed for transfer, if such certificate has been provided.

(f) Within 21 days after the Offeror sends an Offeror's Notice pursuant to Section 14.8(d), the Offeror shall pay or transfer to the Trustees, or to such other person as the Trustees may direct, the cash or other consideration that is payable to Dissenting Unitholders pursuant to Section 14.8(b).

(g) The Trustees, or the person directed by the Trustees, shall hold the cash or other consideration it receives under Section 14.8(f), but such cash or other consideration shall not form any part of the Trust's property. The Trustees, or such persons, shall deposit cash in a separate account in a Canadian chartered bank, and shall place other consideration in the custody of a Canadian chartered bank or similar institution for safekeeping.

(h) Within 30 days after the date of the sending of an Offeror's Notice pursuant to Section 14.8(d), the Trustees, if the Offeror has complied with Section 14.8(f), shall:

(i) do all acts and things and execute and cause to be executed all instruments as in the Trustees' opinion may be necessary or desirable to cause the transfer of the Trust Units of the Dissenting Unitholders to the Offeror and the Offeror shall be deemed to be the owner of the Trust Units of the Dissenting Unitholders referred to in Section 14.8(h) at the earlier of such transfer or the expiry of such 30 days;

(ii) send to each Dissenting Unitholder who has complied with Section 14.8(e) the consideration to which such Dissenting Unitholder is entitled under this Section 14.8; and

(iii) send to each Dissenting Unitholder who has not complied with Section 14.8(e) a notice stating that:

(A) his or her Trust Units have been transferred to the Offeror;

(B) the Trustees or some other person designated in such notice are holding the consideration for such Trust Units; and

(C) the Trustees, or such other person, will send the consideration to such Dissenting Unitholder as soon as practicable after receiving such Dissenting Unitholder's Unit Certificate(s) or such other documents as the Trustees or such other person may require in lieu thereof,

and the Trustees are hereby appointed the agents and attorneys of the Dissenting Unitholders for the purposes of giving effect to the foregoing provisions.

(i) For greater certainty, the Exchangeable Securities of the Dissenting Unitholders will be deemed to have been exchanged into Trust Units and transferred concurrently to the Offeror with the transfer of the balance of the Trust Units under Section 14.8(h).

(j) Subject to applicable law, an Offeror cannot make an Offer for Trust Units unless, concurrent with the communication of the Offer to any Unitholder, a copy of the Offer is provided to the Trust.

The Trust shall cause the terms, conditions, restrictions, rights and obligations of Exchangeable Securities to contain corresponding provisions as may be reasonably necessary or desirable to give effect to this Section 14.8 with respect to holders of Exchangeable Securities, including, without limitation, provisions to effect the automatic conversion, exercise or exchange of Exchangeable Securities by a non tendering Offeree holder thereof or redemption by the issuer of such Exchangeable Securities.

ARTICLE 15
TERMINATION

15.1 Term of the Trust

Subject to the other provisions of this Declaration of Trust, the Trust shall continue for a term ending 21 years after the date of death of the last surviving issue of Her Majesty, Queen Elizabeth II, alive on July 7, 2003. For the purpose of terminating the Trust by such date, the Trustees shall commence to wind-up the affairs of the Trust on such date as may be determined by the Trustees, being not more than two years prior to the end of the term of the Trust.

15.2 Termination with the Approval of Unitholders

The Unitholders may vote by Special Resolution to terminate the Trust at any meeting of Unitholders duly called by the Trustees for the purpose of considering termination of the Trust, following which the Trustees shall commence to wind up the affairs of the Trust as soon as may be reasonably practicable. Such Special Resolution may contain such directions to the Trustees as the Unitholders determine, including a direction to distribute the property of the Trust in specie.

15.3 Procedure Upon Termination

Forthwith upon being required to commence to wind up the affairs of the Trust, the Trustees shall give notice thereof to the Unitholders, which notice shall designate the time or times at which Unitholders may surrender their Units (or convert their Exchangeable Securities and surrender their Trust Units) for cancellation and the date at which the registers of Units of the Trust shall be closed.

15.4 Powers of the Trustees Upon Termination

After the date on 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 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.

15.5 Sale of Investments

After the date referred to in Section 15.3, the Trustees shall proceed to wind up the affairs of the Trust as soon as may be reasonably practicable and for such purpose shall, subject to any direction to the contrary in respect of a termination authorized under Section 15.2, sell and convert into money all the Trust's property in one transaction or in a series of transactions at public or private sales and do all other acts appropriate to liquidate the Trust, and shall in all respects act in accordance with the directions, if any, of the Unitholders (in respect of a termination authorized under Section 15.2). If the Trustees are unable to sell all or any of the assets which comprise part of the Trust by the date set for termination, the Trustees may, subject to obtaining all necessary regulatory approvals, distribute the remaining shares or other assets directly to the Unitholders in accordance with their pro rata interests.

15.6 Distribution of Proceeds or Assets

After paying, retiring or discharging or making provision for the payment, retirement or discharge of all known liabilities and obligations of the Trust and providing for indemnity against any other outstanding liabilities and obligations, the Trustees shall, subject to obtaining all necessary regulatory approvals, distribute the remaining part of the proceeds of the sale of the Trust's property together with any cash forming part of the Trust's property (**"Liquidated Net Assets of the Trust"**) among the Unitholders in accordance with their pro rata interests on a class basis.

15.7 Further Notice to Unitholders

In the event that less than all of the Unitholders have surrendered their Trust Units for cancellation within six months after the time specified in the notice referred to in Section 15.3, the Trustees shall give further notice to the remaining Unitholders to surrender their Trust Units (or convert their Exchangeable Securities and surrender their Trust Units) for cancellation and if, within one year after the further notice, all the Exchangeable Securities have not been converted and all the Trust 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 property of the Trust, 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.

15.8 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's property after the date referred to in Section 15.3 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 15.6.

ARTICLE 16
SUPPLEMENTAL INDENTURES

16.1 Provision for Supplemental Indentures for Certain Purposes

The Trustees may, without approval of 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 12.1 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 a majority of the votes cast by Unitholders or by two-thirds of the votes cast by Unitholders, as the case may be.

ARTICLE 17
GENERAL

17.1 Notices

(a) Any notice or other document required to be given or sent to Unitholders under this Declaration of Trust shall be given or sent through ordinary post addressed to each registered holder at his or her last address appearing on the register; 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.

17.2 Failure to Give Notice

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

17.3 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.

17.4 Service of Notice

Any notice or document sent by post to or left at the address of a Unitholder pursuant to this Section 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.

17.5 Information Available to Unitholders

Each Unitholder shall have the right to obtain, on demand and without fee, from the head office of the Trust a copy of this Declaration of Trust and any amendments thereto relating to the Units held by that Unitholder and shall be entitled to inspect and, on payment of a reasonable fee therefor and after delivering to the Trustees a statutory declaration stating the name and address of the person requiring the Trustees to furnish the list of Trust Unitholders and, if the person is a body corporate, the address for service thereof, and that the list will not be used except in connection with:

(a) an effort to influence the voting of the holders of Units;

(b) an offer to acquire Units; or

(c) any other matter relating to the Units or the affairs of the Trust,

obtain a list of the Unitholders for the aforesaid purposes.

17.6 Fiscal Year and Taxation Year

The fiscal year and taxation year of the Trust shall end on December 31 of each year.

17.7 Financial Disclosure

The Trust will send to Unitholders:

(a) within 140 days of the end of each fiscal year of the Trust (or within such shorter period required by law) and at least 21 days prior to the date of each annual meeting of Unitholders, the annual financial statements of the Trust for the fiscal year ended immediately prior to such annual meeting, together with comparative financial statements for the preceding fiscal year, if any, and the report of the Auditors thereon referred to in Section 18.4; and

(b) within 60 days after the end of each fiscal quarter of the Trust (other than the fourth quarter of each year) (or within such shorter period required by law), unaudited quarterly financial statements of the Trust for such fiscal quarter, together with comparative financial statements for the same fiscal quarter in the preceding fiscal year, if any.

Such financial statements shall be prepared in accordance with IFRS as adopted in Canada and as recommended from time to time in the Handbook of the Canadian Institute of Chartered Accountants; provided that such statements and the obligation to deliver such statements may vary from such principles to the extent required to comply with applicable securities laws or securities regulatory requirements or to the extent permitted by applicable securities regulatory authorities.

17.8 Unitholder Meeting Information

Prior to each meeting of Unitholders, the Trustees will provide to each Unitholder, together with the notice of the meeting:

(a) a form of proxy which can be used by a Unitholder to appoint a proxy, who need not be a Unitholder, to attend and act at the meeting on behalf of the Unitholder, in the manner and to the extent authorized by the proxy; and

(b) all information required by applicable law for reporting issuers and offering corporations.

17.9 Taxation Information

On or before March 15 in each year, the Trust will provide to Unitholders who received distributions from the Trust in the prior calendar year or on or before January 15 of the current calendar year, such information regarding the Trust as required by Canadian law to be submitted to such Unitholders for income tax purposes to enable Unitholders to complete their tax returns in respect of the prior calendar year.

17.10 Power of Attorney

The Trustees hereby grant to CCC a power of attorney constituting the CCC with full power of substitution, as their true and lawful attorney to act on behalf of the Trust with full power and authority in their name, place and stead, and to execute, under seal or otherwise, swear to, acknowledge, deliver, make or file or record when, as and where required, any instrument, deed, agreement or document in connection with carrying out the activities of the Trust in connection with the Offering including, without limitation, to execute on the Trust's behalf the Prospectus and the Underwriting Agreement.

17.11 Trust Property to be Kept Separate

The Trustees shall maintain the Trust's property separate from all other property in their possession and from the property of all other persons. For greater certainty, the Trust's property shall not form part of or include the assets of CSH Trust and/or Master LP or any other person, except to the extent that legal title to such property is held by the Trustees on behalf of the Trust.

17.12 Trust Records

The Trustee shall prepare and maintain, at the principal office of the Trust 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 the 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 in Canada as the Trustees think fit and shall at all reasonable times be open to inspection by the Trustees.

17.13 Income Tax Election

In respect of the first taxation year of the Trust, the Trust shall elect 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 for the entire year.

17.14 Consolidations

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

ARTICLE 18
AUDITORS

18.1 Qualification of Auditors

The Auditors shall be an independent recognized firm of chartered accountants which has an office in Canada.

18.2 Appointment of Auditors

KPMG LLP are confirmed as the Auditors of the Trust, to hold such office until the first annual meeting of the Unitholders. The Auditors will be selected at each succeeding annual meeting of Unitholders. The Auditors will receive such remuneration as may be approved by the Trustees. If at any time a vacancy occurs in the position of Auditors of the Trust, the Trustees may appoint new auditors to act as the Auditors of the Trust until the next annual meeting of the Unitholders.

18.3 Change of Auditors

The Auditors may at any time be removed by the Trustees with the approval of a majority of the votes cast by Unitholders, at a meeting of Unitholders duly called for the purpose and, upon the resignation or the removal of Auditors as aforesaid, new auditors may be appointed by a majority of votes cast by Unitholders at a meeting duly called for the purpose or, in the absence of such meeting, by the Trustees.

18.4 Report of Auditors

The Auditors shall audit the accounts of the Trust at least once in each year and a report of the Auditors with respect to the annual financial statements of the Trust shall be provided to each Unitholder with the annual financial statements referred to in Section 17.7.

ARTICLE 19
MISCELLANEOUS

19.1 Counterparts

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

19.2 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.

19.3 Language

Les parties aux présentes ont exigés que la présente convention ainsi que tous les documents et avis qui s'y rattachent et/ou qui en découleront soient rédigés en la langue anglaise. The parties hereto have required that this Declaration of Trust and all documents and notices resulting herefrom be drawn up in English.

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IN WITNESS WHEREOF this Ninth Amended and Restated Declaration of Trust has been executed by the undersigned as of the date referenced above.

Lise Bastarache,
in her capacity as trustee of
CHARTWELL SENIORS HOUSING REAL ESTATE INVESTMENT TRUST

(signed) *"Lise Bastarache"*

Charles Moses,
in his capacity as trustee of
CHARTWELL SENIORS HOUSING REAL ESTATE INVESTMENT TRUST

(signed) *"Charles Moses"*

Sidney P.H. Robinson,
in his capacity as trustee of
CHARTWELL SENIORS HOUSING REAL ESTATE INVESTMENT TRUST

(signed) *"Sidney P.H. Robinson"*