STARLIGHT U.S. RESIDENTIAL FUND

AMENDED AND RESTATED DECLARATION OF TRUST

Dated as of October 28, 2021

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STARLIGHT U.S. RESIDENTIAL FUND
AMENDED AND RESTATED DECLARATION OF TRUST

THIS AMENDED AND RESTATED DECLARATION OF TRUST made in Toronto, Ontario as of the 28th day of October, 2021.

BETWEEN:

> **DANIEL DRIMMER, HARRY ROSENBAUM AND KELLY SMITH**, the trustees of the trust constituted by this amended and restated declaration of trust, and each individual who after the date hereof becomes a trustee of the Trust as herein provided (each individual, while a trustee of the Trust as herein provided, hereinafter called a "**Trustee**" and collectively at any time, the individuals each of whom is at that time a Trustee, hereinafter called the "**Trustees**"),

OF THE FIRST PART,

> - and -

> **STARLIGHT GROUP PROPERTY HOLDINGS INC.** (hereinafter called the "**Initial Unitholder**") and all Persons who after the date hereof become holders of units of the trust as herein provided (collectively at any time, the "**Unitholders**"),

OF THE SECOND PART.

WHEREAS the Trust was established pursuant to a Declaration of Trust made effective the 23rd day of September, 2021 (the "**Original Declaration of Trust**");

AND WHEREAS the Trust was on that date settled with US$10.00 (the "**Initial Contribution**") by the Initial Unitholder, which Daniel Drimmer, Martin Liddell and David Hanick, in their capacity as trustees of the Trust, thereupon held in trust, in exchange for the Initial Unit (as hereinafter defined);

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

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

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

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

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

ARTICLE 1
THE TRUST AND DEFINITIONS

1.1 Definitions

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

"**Acquired Issuer**" has the meaning given thereto in Section 7.1(d);

"**affiliate**" means an affiliate as defined under National Instrument 45-106 – *Prospectus Exemptions*, as it exists upon the date hereof, subject to the terms "Person" and "issuer" in such instrument being ascribed the same meaning as the term "Person" in this Declaration of Trust;

"**Agents' Fee**" means a fee payable by the Trust equal to C$0.525 (5.25%) per Class A Unit and Class D Unit, C$0.225 (2.25%) per Class F Unit, US$0.225 (2.25%) per Class E Unit and US$0.525 (5.25%) per Class G Unit and Class U Unit. The Agents' Fee for Class A Units, Class D Units, Class G Units and Class U Units includes a selling concession of 3%;

"**Aggregate Class A Interest**" is equal to (i) the aggregate gross proceeds received by the Trust for the issuance of the Class A Units pursuant to the Offering and any concurrent private placements (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date) less the aggregate Agents' Fee payable in respect of the Class A Units (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), divided by (ii) the number of Class A Units issued pursuant to the Offering and any concurrent private placements, multiplied by (iii) the number of Class A Units outstanding at the time the Aggregate Class A Interest is being calculated;

"**Aggregate Class C Interest**" is equal to (i) the sum of (A) the aggregate gross proceeds received by the Trust for the issuance of the Class C Units pursuant to the Offering and any concurrent private placements (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), and (B) the aggregate gross proceeds the Trust would have received had Class C Units been issued instead of the Investment LP Class B Units (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), divided by (ii) the sum of (A) the number of Class C Units issued pursuant to the Offering and any concurrent private placements following the redemption and cancellation of the initial Class C Unit, and (B) the number of issued and outstanding Investment LP Class B Units at the time of closing of the Offering, multiplied by (iii) the sum of (A) the number of Class C Units outstanding at the time the Aggregate Class C Interest is being calculated, and (B) the number of Investment LP Class B Units outstanding at the time the Aggregate Class C Interest is being calculated;

"**Aggregate Class D Interest**" is equal to (i) the aggregate gross proceeds received by the Trust for the issuance of Class D Units pursuant to the Offering and any concurrent private placements (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date) less the aggregate Agents' Fee payable in respect of the Class D Units (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), divided by (ii) the number of Class D Units issued pursuant to the Offering and any concurrent private placements, multiplied by (iii) the number of Class D Units outstanding at the time the Aggregate Class D Interest is being calculated;

"**Aggregate Class E Interest**" is equal to (i) the aggregate gross proceeds received by the Trust for the issuance of Class E Units pursuant to the Offering and any concurrent private placements less the aggregate Agents' Fee payable in respect of the Class E Units, divided by (ii) the number of Class E Units issued pursuant to the Offering and any concurrent private placements, multiplied by (iii) the number of Class E Units outstanding at the time the Aggregate Class E Interest is being calculated;

"**Aggregate Class F Interest**" is equal to (i) the aggregate gross proceeds received by the Trust for the issuance of Class F Units pursuant to the Offering and any concurrent private placements (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), less the aggregate Agents' Fee payable in respect of the Class F Units (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), divided by (ii) the number of Class F Units issued pursuant to the Offering and any concurrent private placements, multiplied by (iii) the number of Class F Units outstanding at the time the Aggregate Class F Interest is being calculated;

"**Aggregate Class G Interest**" is equal to (i) the aggregate gross proceeds received by the Trust for the issuance of Class G Units pursuant to the Offering and any concurrent private placements less the aggregate Agents' Fee payable in respect of the Class G Units, divided by (ii) the number of Class G Units issued pursuant to the Offering and any concurrent private placements, multiplied by (iii) the number of Class G Units outstanding at the time the Aggregate Class G Interest is being calculated;

"**Aggregate Class I Interest**" is equal to (i) the aggregate gross proceeds received by the Trust for the issuance of Class I Units pursuant to any concurrent private placements (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), divided by (ii) the number of Class I Units issued pursuant to any concurrent private placements, multiplied by (iii) the number of Class I Units outstanding at the time the Aggregate Class I Interest is being calculated;

"**Aggregate Class U Interest**" is equal to (i) the aggregate gross proceeds received by the Trust for the issuance of the Class U Units pursuant to the Offering and any concurrent private placements less the aggregate Agents' Fee payable in respect of the Class U Units, divided by (ii) the number of Class U Units issued pursuant to the Offering and any concurrent private placements, multiplied by (iii) the number of Class U Units outstanding at the time the Aggregate Class U Interest is being calculated;

"**Aggregate Units Interest**" means, at any time, the sum of (i) the Aggregate Class A Interest, (ii) the Aggregate Class C Interest, (iii) the Aggregate Class D Interest, (iv) the Aggregate Class E Interest, (v) the Aggregate Class F Interest, (vi) the Aggregate Class G Interest, (vii) the Aggregate Class I Interest, and (viii) the Aggregate Class U Interest, at such time;

"**Annuitant**" means the annuitant or beneficiary of a Plan or any other plan of which a Unitholder acts as trustee or carrier;

"**Applicable Laws**" means, in respect of any Person, all laws, statutes, regulations, statutory rules, principles of common law or equity, orders and terms and conditions of any grant of approval, permission, authority or license of any governmental authority applicable to such Person or its business, undertaking and property having jurisdiction over the Person or its business, undertaking or property, in each case as amended from time to time;

"**Asset Management Fee**" has the meaning ascribed thereto in the Management Agreement;

"**associate**" when used to indicate a relationship with a Person or company has the meaning ascribed thereto in the *Securities Act* (Ontario), as replaced or amended from time to time;

"**Audit Committee**" has the meaning given thereto in Section 11.1;

"**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 BDO Canada LLP;

"**Beneficial Owner**" has the meaning given thereto in Section 8.10(c);

"**Bid Units**" has the meaning given thereto in Section 8.26;

"**Board**" means the board of Trustees of the Trust;

"**Business Day**" means any day which is not a Saturday, Sunday or statutory holiday in the Province of Ontario or any state in which any of the Properties are located;

"**Canadian Dollar Unit Distribution Hedge**" means the intended acquisition of derivative instruments by the Trust upon closing of the Offering intended to provide the holders of Canadian Dollar Units with some protection against any weakening of the U.S. dollar as compared to the Canadian dollar between the Closing Date and each date of declaration in respect of distributions on the Canadian Dollar Units;

"**Canadian Dollar Units**" means the Class A Units, Class C Units, Class D Units, Class F Units and Class I Units, and any other class of beneficial interests in the Trust denominated in Canadian dollars;

"**Canadian Securities Regulatory Authorities**" means, collectively, the securities regulatory authorities in each of the provinces of Canada and any of their successors, including pursuant to the establishment of any federal or multi-jurisdictional cooperative Canadian securities regulatory authority;

"**Cash Flow**" means, for any Distribution Period:

(i) the sum of all cash amounts received by the Trust for or in respect of such Distribution Period, including amounts received as a limited partner holding Investment LP Class A Units pursuant to the terms of the applicable Investment LPs Agreement and all other income, interest, distributions, dividends, proceeds from the investment in Investment LP Class A Units (other than by way of security interest), returns of capital and repayments of indebtedness, as well as all amounts received by the Trust in any prior Distribution Period to the extent not previously distributed; less

(ii) all costs and expenses of the Trust that, in the opinion of the Board, may reasonably be considered to have accrued and become owing in respect of, or which relate to, such Distribution Period or a prior Distribution Period if not accrued in such prior period; less

(iii) without duplication, any interest expense incurred by the Trust between distributions,

provided that any funds borrowed by the Trust will not be included in the calculations of Cash Flow in respect of any Distribution Period;

"**CBCA**" means the *Canada Business Corporations Act*, as amended from time to time;

"**CDS**" means CDS Clearing and Depository Services Inc. and its successors;

"**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;

"**Chair**", "**Chief Executive Officer**", "**Chief Financial Officer**" and "**Corporate Secretary**" mean the individual(s) holding the respective office from time to time if so elected, appointed, engaged or employed by the Trustees or provided by the Manager to serve in such capacity in respect of the Trust;

"**Class A Unit Exchange Rate**" is equal to (i) (A) the sum of the aggregate gross proceeds received by the Trust for the issuance of the Class A Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class A Units since inception of the Trust to the time of exchange of the Class A Unit and less the aggregate Agents' Fee payable in respect of the Class A Units, divided by (B) the aggregate of the number of Class A Units issued pursuant to the Offering and any concurrent private placements, divided by (ii) (A) the sum of the aggregate gross proceeds received by the Trust for the issuance of Class D Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class D Units since inception of the Trust to the time of exchange of the Class A Unit and less the aggregate Agents' Fee payable in respect of the Class D Units, divided by (B) the number of Class D Units issued pursuant to the Offering and any concurrent private placements;

"**Class A Units**" means the trust units of the Trust, designated as "Class A Units";

"**Class C Hold Period**" means a period of four months after the Closing Date during which the Class C Units may not be sold, transferred or converted;

"**Class C Unit Exchange Rate**" is equal to (i) (A) the sum of (x) the aggregate gross proceeds received by the Trust for the issuance of the Class C Units pursuant to the Offering and any concurrent private placements, and (y) the aggregate gross proceeds the Trust would have received had Class C Units been issued instead of the Investment LP Class B Units, less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class C Units since inception of the Trust to the time of exchange of the Class C Unit, divided by (B) the sum of (x) the number of Class C Units issued pursuant to the Offering following the redemption and cancellation of the initial Class C Unit and any concurrent private placements, and (y) the issued and outstanding number of Investment LP Class B Units at the time of closing of the Offering, divided by (ii) (A) the aggregate gross proceeds received by the Trust for the issuance of Class A Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class A Units since inception of the Trust to the time of exchange of the Class A Unit and less the aggregate Agents' Fee payable in respect of the Class A Units, divided by (B) the number of Class A Units issued pursuant to the Offering and any concurrent private placements;

"**Class C Units**" means the trust units of the Trust, designated as "Class C Units";

"**Class D Unit Exchange Rate**" is equal to (i) (A) the aggregate gross proceeds received by the Trust for the issuance of the Class D Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class D Units since inception of the Trust to the time of exchange of the Class D Unit and less the aggregate Agents' Fee payable in respect of the Class D Units, divided by (B) the number of Class D Units issued pursuant to the Offering and any concurrent private placements, divided by (ii) (A) the aggregate gross proceeds received by the Trust for the issuance of Class A Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class A Units since inception of the Trust to the time of exchange of the Class A Unit and less the aggregate Agents' Fee payable in respect of the Class A Units, divided by (B) the number of Class A Units issued pursuant to the Offering and any concurrent private placements;

"**Class D Units**" means the trust units of the Trust, designated as "Class D Units";

"**Class E Unit Exchange Rate**" is equal to (i) (A) the aggregate gross proceeds received by the Trust for the issuance of the Class E Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class E Units since inception of the Trust to the time of exchange of the Class E Unit and less the aggregate Agents' Fee payable in respect of the Class E Units, divided by (B) the number of Class E Units issued pursuant to the Offering and any concurrent private placements, divided by (ii) (A) the aggregate gross proceeds received by the Trust for the issuance of Class U Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class U Units since inception of the Trust to the time of exchange of the Class U Unit and less the aggregate Agents' Fee payable in respect of the Class U Units, divided by (B) the number of Class U Units issued pursuant to the Offering and any concurrent private placements;

"**Class E Units**" means the trust units of the Trust, designated as "Class E Units";

"**Class F Unit Exchange Rate**" is equal to (i) (A) the aggregate gross proceeds received by the Trust for the issuance of the Class F Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class F Units since inception of the Trust to the time of exchange of the Class F Unit and less the aggregate Agents' Fee payable in respect of the Class F Units, divided by (B) the number of Class F Units issued pursuant to the Offering and any concurrent private placements, divided by (ii) (A) the aggregate gross proceeds received by the Trust for the issuance of Class A Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class A Units since inception of the Trust to the time of exchange of the Class A Unit and less the aggregate Agents' Fee payable in respect of the Class A Units, divided by (B) the number of Class A Units issued pursuant to the Offering and any concurrent private placements;

"**Class F Units**" means the trust units of the Trust, designated as "Class F Units";

"**Class G Unit Exchange Rate**" is equal to (i) (A) the aggregate gross proceeds received by the Trust for the issuance of the Class G Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class G Units since inception of the Trust to the time of exchange of the Class G Unit and less the aggregate Agents' Fee payable in respect of the Class G Units, divided by (B) the number of Class G Units issued pursuant to the Offering and any concurrent private placements, divided by (ii) (A) the aggregate gross proceeds received by the Trust for the issuance of Class U Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class U Units since inception of the Trust to the time of exchange of the Class U Unit and less the aggregate Agents' Fee payable in respect of the Class U Units, divided by (B) the number of Class U Units issued pursuant to the Offering and any concurrent private placements;

"**Class G Units**" means the trust units of the Trust, designated as "Class G Units";

"**Class I Asset Management Fee Reduction Amount**" means the product of (A) 0.10% of the Gross Asset Value, and (B) the Proportionate Class I Interest;

"**Class I Unit Exchange Rate**" is equal to (i) (A) the aggregate gross proceeds received by the Trust for the issuance of the Class I Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class I Units since inception of the Trust to the time of exchange of the Class

I Unit, divided by (B) the number of Class I Units issued pursuant to the Offering and any concurrent private placements, divided by (ii) (A) the aggregate gross proceeds received by the Trust for the issuance of Class A Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class A Units since inception of the Trust to the time of exchange of the Class A Unit and less the aggregate Agents' Fee payable in respect of the Class A Units, divided by (B) the number of Class A Units issued pursuant to the Offering and any concurrent private placements;

"**Class I Units**" means the trust units of the Trust, designated as "Class I Units";

"**Class Offer**" has the meaning given thereto in Section 8.26;

"**Class U Unit Exchange Rate**" is equal to (i) (A) the sum of the aggregate gross proceeds received by the Trust for the issuance of the Class U Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class U Units since inception of the Trust to the time of exchange of the Class U Unit and less the aggregate Agents' Fee payable in respect of the Class U Units, divided by (B) the aggregate of the number of Class U Units issued pursuant to the Offering and any concurrent private placements, divided by (ii) (A) the sum of the aggregate gross proceeds received by the Trust for the issuance of Class G Units pursuant to the Offering and any concurrent private placements less aggregate Unit Class Expenses allocable to, but not deducted from distributions paid or payable on, Class G Units since inception of the Trust to the time of exchange of the Class U Unit and less the aggregate Agents' Fee payable in respect of the Class G Units, divided by (B) the number of Class G Units issued pursuant to the Offering and any concurrent private placements;

"**Class U Units**" means the trust units of the Trust, designated as "Class U Units";

"**Closing**" means the closing of the Offering as described in the Prospectus; and "**Closing Date**" means the date on which the Closing occurs;

"**Coattail Exchange Rate**" is equal to (i) (A) the aggregate gross proceeds received by the Trust for the issuance of the applicable class of Coattail Units pursuant to the Offering and any concurrent private placements (if the Coattail Units are Class A Units, calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), less the aggregate Agents' Fee payable in respect of the Coattail Units (if the Coattail Units are Class A Units, calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), divided by (B) the number of Coattail Units of the applicable class issued pursuant to the Offering and any concurrent private placements, divided by (ii) (A) the aggregate gross proceeds received by the Trust (or deemed received by the Trust in respect of any Class C Units issued on exchange of Investment LP Class B Units) for the issuance of the applicable class of Bid Units pursuant to the Offering and any concurrent private placements (if the Bid Units are Class C Units, Class D Units, Class F Units or Class I Units, calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), less the aggregate Agents' Fee payable in respect of the applicable class of Bid Units, (if the Bid Units are Class C Units, Class D Units, Class F Units or Class I

Units, calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), divided by (B) the number of the applicable class of Bid Units issued pursuant to the Offering and any concurrent private placements;

"**Coattail Units**" has the meaning given thereto in Section 8.26;

"**Code**" means the United States Internal Revenue Code of 1986, as amended from time to time;

"**Control**" has the meaning set out in National Instrument 45-106 – *Prospectus Exemptions*, as replaced or amended from time to time (including any successor rule or policy thereto), if the term "Person" therein was replaced "Person" as defined herein;

"**Conversion End Date**" has the meaning given thereto in Section 8.26;

"**Convertible Units**" means the Class A Units, Class C Units, Class D Units, Class E Units, Class F Units, Class G Units, Class I Units and Class U Units;

"**CPOA**" has the meaning given thereto in Section 3.5(d);

"**Declaration of Trust**" means this Amended and Restated Declaration of Trust as amended, supplemented or amended and restated from time to time;

"**Dissenting Offeree**" means, where a Take-Over Bid is made for all of the Units other than those held by the Offeror (its affiliates and associates), a holder of Units who does not accept the Take-Over Bid and includes a subsequent holder of those Units who acquires them from the first mentioned holder;

"**Distributable Cash Flow**" means, for any Distribution Period, an amount equal to the Cash Flow for such Distribution Period, less any amount that the Board may reasonably consider to be necessary to provide for the payment of any costs or expenses, including any tax liability of the Investment LPs, the Investment GPs or the Trust, that have been or are reasonably expected to be incurred in the activities and operations of each respective Investment LP, Investment GP or the Trust (to the extent that such costs or expenses have not otherwise been taken into account in the calculation of the Cash Flow) and less such reserves or amounts as are, in the opinion of the Board, necessary or desirable;

"**Distributable Cash Flow Balance**" has the meaning given thereto in Section 12.1;

"**Distribution Payment Date**" means a date selected by the Board for payment of a distribution;

"**Distribution Period**" means each month of each calendar year expected to commence on January 1, 2022, provided that the first Distribution Period shall be prorated to cover the period from the Closing Date through December 31, 2021;

"**Exchange**" means the TSX Venture Exchange;

"**Fiscal Year**" means each fiscal year of the Trust;

"**Gross Asset Value**" means the sum of: (i) the historical purchase price of the Properties in U.S. dollars paid or deemed paid by the Trust, and (ii) the cost, in U.S. dollars, of any capital expenditures in respect of the Properties since the date of their indirect acquisition by the Trust;

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

"**Holding LPs**" means, collectively, the Holding MF LP and Holding SF LP;

"**Holding LPs Units**" means the limited partnership units of the Holding LPs;

"**Holding MF LP**" means Starlight U.S. Residential (Multi-Family) Holding L.P., a limited partnership established under the laws of Delaware;

"**Holding SF LP**" means Starlight U.S. Residential (Single-Family) Holding L.P., a limited partnership established under the laws of Delaware;

"**IFRS**" means International Financial Reporting Standards;

"**Indemnified Party**" has the meaning ascribed thereto in Section 17.2;

"**Independent Trustee**" means any Trustee who is independent for purposes of National Policy 58-101 – *Disclosure of Corporate Governance Practices*;

"**Initial Contribution**" has the meaning given thereto in the Recitals;

"**Initial Portfolio**" means the portfolio comprising (i) 757 multi-family residential units in two Properties located in Florida and North Carolina, in the Tampa and Raleigh metropolitan areas, respectively, (ii) 14 single-family rental homes located in Georgia in the Atlanta metropolitan area, and (iii) in the event sufficient proceeds are raised in the Offering, 376 multi-family residential suites in a Property located in Nevada in the Las Vegas metropolitan area, interests in each of which will be indirectly acquired by the Trust following the completion of the Offering;

"**Initial Unit**" means the initial Class C Unit issued by the Trust to the Initial Unitholder for cash consideration of US$10.00;

"**Initial Unitholder**" has the meaning given thereto in the Recitals;

"**Investable Funds**" means the sum of (i) the net proceeds from the Offering and any concurrent private placements and (ii) the net proceeds received from any one or more mortgages, charges, pledges, hypothecs, liens, security interests or other encumbrances of any kind or nature whatsoever of the Properties, to be granted by a U.S. REITs (or, if a Property is held by a Subsidiary or nominee entity on behalf of a U.S. REITs, by such entity) to one or more lenders, the proceeds of which will be used to finance the purchase, ownership and leasing of such Property;

"**Investment GPs**" means, collectively, the Investment MF GP and Investment SF GP and "**Investment GP**" means any one of them;

"**Investment LP Class A Units**" means the Class A limited partnership units of the Investment LPs;

"**Investment LP Class B Units**" means the Class B limited partnership units of the Investment LPs;

"**Investment LPs**" mean, collectively, the Investment MF LP and Investment SF LP and "**Investment LP**" means any one of them;

"**Investment LPs Agreements**" means the Investment MF LP Agreement and the Investment SF LP Agreement;

"**Investment LPs Units**" means, collectively, the Investment LP Class A Units and the Investment LP Class B Units of the Investment LPs;

"**Investment MF GP**" means Starlight U.S. Residential (Multi-Family) Investment GP, Inc., a corporation that was incorporated under the laws of the Province of Ontario on September 24, 2021, and the general partner of the Investment MF LP;

"**Investment MF LP**" means Starlight U.S. Residential (Multi-Family) Investment LP, a limited partnership that was established on September 24, 2021 by Starlight Group and Investment MF GP pursuant to the laws of the Province of Ontario and pursuant to the Investment MF LP Agreement;

"**Investment MF LP Agreement**" means the agreement establishing Investment MF LP dated September 24, 2021, as it may be amended and restated from time to time, between Starlight Group and Investment MF GP and all persons who become holders of Investment LPs Units as provided therein;

"**Investment Restrictions**" has the meaning given thereto in Section 7.1(a);

"**Investment SF GP**" means Starlight U.S. Residential (Single-Family) Investment GP, Inc., a corporation that was incorporated under the laws of the Province of Ontario on September 24, 2021, and the general partner of the Investment SF LP;

"**Investment SF LP**" means Starlight U.S. Residential (Single-Family) Investment LP, a limited partnership that was established on September 24, 2021 by Starlight Group and Investment SF GP pursuant to the laws of the Province of Ontario and pursuant to the Investment SF LP Agreement;

"**Investment SF LP Agreement**" means the agreement establishing Investment SF LP dated September 24, 2021, as it may be amended and restated from time to time, between Starlight Group and Investment SF GP and all persons who become holders of Investment LPs Units as provided therein;

"**Management Agreement**" means the agreement to be entered into at or prior to the Closing Date among the Trust, the U.S. REITs and the Manager pursuant to which the Manager will provide certain advisory, asset management and administrative services to the Trust and the U.S. REITs, as such agreement may be amended, restated and/or supplemented from time to time;

"**Manager**" means Starlight Investments US AM Group LP, a wholly-owned Subsidiary of Starlight Group, in its capacity as the manager of the Trust pursuant to the Management Agreement, or any Person which is from time to time appointed as the manager of the Trust in accordance with the terms of this Declaration of Trust;

"**Material Agreements**" means, collectively, the Management Agreement, the Investment LPs Agreements, the Subscription, Contribution and Distribution Agreement and the agency agreement for the Offering as described in the Prospectus;

"**Meeting of the Unitholders**" has the meaning given thereto in Section 9.1;

"**MI 61-101**" means Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* as replaced or amended from time to time;

"**NCI**" means the non-certificated inventory system of CDS;

"**Net Subscription Proceeds**" means the net proceeds (in U.S. dollars) received by the Trust from (a) the issuance of the Canadian Dollar Units pursuant to the Offering and any concurrent private placements (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date) and (b) the issuance of the U.S. Dollar Units pursuant to the Offering and any concurrent private placements, minus (c) the Total Agents' Fee;

"**Non-Resident**" means either a Person who is not a Resident or a partnership that is not a "Canadian partnership" within the meaning of the Tax Act;

"**Offeree**" means a Person to whom a Take-Over Bid is made;

"**Offering**" means the issuance of Units in connection with the initial public offering (together with any concurrent private placements) of the Trust;

"**Offeror**" means a Person, other than an agent, who makes a Take-Over Bid; and includes two or more Persons who, directly or indirectly:

(i) make a Take-Over Bid jointly or in concert; or

(ii) intend to exercise jointly or in concert voting rights attached to the Units for which a Take-Over Bid is made;

"**Operating Expenses**" means all amounts paid or payable on account of expenses in the operation of and/or leasing of the Properties;

"**Operating Policies**" has the meaning given thereto in Section 7.2;

"**Ordinary Resolution**" means a resolution of the Unitholders approved by not less than 50% of the votes cast by those Persons who vote in person or by proxy at a duly convened meeting of the Trust, or a written resolution, after being submitted to all of the Unitholders eligible to vote on such resolution, signed by the Unitholders entitled, in the aggregate, to not less than 50% of the aggregate number of votes of those Persons;

"**Original Declaration of Trust**" has the meaning given thereto in the Recitals;

"**Original Purchasers**" has the meaning given thereto in Section 8.28;

"**Person**" includes any individual, firm, partnership, limited partnership, limited liability partnership, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, trustee, executor, administrator, legal personal representative, estate, group, body corporate, trust, unincorporated association or organization, governmental authority, syndicate or other entity, whether or not having legal status, however designated or constituted;

"**Plans**" means, collectively, registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans and tax-free saving accounts, each as defined in the Tax Act, and "**Plan**" means any one of them;

"**Properties**" means the lands and premises located in the U.S. or interests therein to be purchased, owned and leased, directly or indirectly, by the U.S. REITs or their affiliates, including the Initial Portfolio, and "**Property**" means one of the Properties;

"**Proportionate Class A Interest**" is equal to the Aggregate Class A Interest, divided by the Aggregate Units Interest;

"**Proportionate Class C Interest**" is equal to the Aggregate Class C Interest, divided by the Aggregate Units Interest;

"**Proportionate Class D Interest**" is equal to the Aggregate Class D Interest, divided by the Aggregate Units Interest;

"**Proportionate Class E Interest**" is equal to the Aggregate Class E Interest, divided by the Aggregate Units Interest;

"**Proportionate Class F Interest**" is equal to the Aggregate Class F Interest, divided by the Aggregate Units Interest;

"**Proportionate Class G Interest**" is equal to the Aggregate Class G Interest, divided by the Aggregate Units Interest;

"**Proportionate Class I Interest**" is equal to the Aggregate Class I Interest, divided by the Aggregate Units Interest;

"**Proportionate Class U Interest**" is equal to the Aggregate Class U Interest, divided by the Aggregate Units Interest;

"**Prospectus**" means the final prospectus of the Trust dated October 28, 2021 relating to the Offering as filed with the securities commissions or similar authorities in each of the provinces of Canada, as the same may be amended or amended and restated;

"**Quarterly Limit**" has the meaning given thereto in Section 8.11(d)(i);

"**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 the Securities of trusts, corporations or partnerships the sole or principal purpose and activity of which is to directly or indirectly invest in, hold and/or deal in Real Property;

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

"**Redemption Price**" has the meaning given thereto in Section 8.11(c)(i);

"**Register**" has the meaning given thereto in Section 8.16;

"**Related Party**" means, with respect to any Person, a Person who is a "related party" as that term is defined in MI 61-101;

"**Resident**" means a Person who is, or is deemed to be, resident in Canada for purposes of the Tax Act;

"**Retiring Trustee**" has the meaning given thereto in Section 3.5(c);

"**Securities Act**" means the *Securities Act* (Ontario), and the regulations thereunder, as amended;

"**Securities Laws**" means (i) the securities legislation in each of the provinces and territories of Canada, as well as federal Canadian securities legislation, including all rules, regulations, instruments, policies, notices, published policy statements and blanket orders thereunder or issued by one or more of the Canadian Securities Regulatory Authorities, and (ii) if and to the extent applicable, securities laws of the United States;

"**SIFT Partnership**" means a partnership that is a "SIFT Partnership" within the meaning of section 197 of the Tax Act;

"**SIFT Trust**" means a trust that is a "SIFT trust" within the meaning of section 122.1 of the Tax Act;

"**Special Resolution**" means a resolution of the Unitholders approved by not less than $66^{2}/_{3}$% of the votes cast by those Persons who vote in person or by proxy at a duly convened meeting of the Trust, or a written resolution, after being submitted to all of the Unitholders eligible to vote on such resolution, signed by the Unitholders, entitled, in the aggregate, to not less than $66^{2}/_{3}$% of the aggregate number of votes of those Persons;

"**Special Voting Unit**" means a special voting unit of the Trust;

"**Starlight**" means collectively, Starlight Group and its affiliates as the context requires;

"**Starlight Group**" means Starlight Group Property Holdings Inc., a British Columbia corporation;

"**Subscription, Contribution and Distribution Agreement**" means the Subscription, Contribution and Distribution Agreement to be entered into on or before the Closing Date pursuant to which the Trust will subscribe for the Investment LP Class A Units and the Investment LPs will pay certain distributions to Starlight Group, as set forth therein;

"**Subsidiary**" includes, with respect to any Person, an entity controlled, directly or indirectly, by such Person and, in respect of the Trust, shall include the Investment LPs, the Investment GPs, the Holding LPs, the U.S. REITs and any special purpose vehicle wholly-owned by the U.S. REITs and "**Subsidiaries**" means any two or more of them;

"**Take-Over Bid**" has the meaning ascribed thereto in National Instrument 62-104 – *Take-Over Bids and Issuer Bids*, as replaced or amended from time to time;

"**Tax Act**" means the *Income Tax Act* (Canada) and the regulations thereunder, as replaced or amended from time to time;

"**Taxation Year**" means the taxation year of the Trust for the purposes of the Tax Act;

"**Term**" means the term of the Trust, which is targeted to be three years, subject to extension as contemplated in Section 16.1;

"**Total Agents' Fee**" means the sum of (i) the aggregate Agents' Fee payable in respect of the Class A Units, Class D Units and Class F Units (calculated in U.S. dollars based on the U.S. dollar/Canadian dollar spot exchange rate available to the Trust on the Closing Date), and (ii) the aggregate Agents' Fee payable in respect of the Class E Units, Class G Units and Class U Units;

"**Transfer Agent**" means such entity as may from time to time be appointed by the Trust to act as registrar and transfer agent of one or more classes of the Units, together with any sub-transfer agent duly appointed by the Transfer Agent;

"**Trust**" means Starlight U.S. Residential Fund, a trust created pursuant to the Original Declaration of Trust and governed by this Declaration of Trust pursuant to the laws of the Province of Ontario;

"**Trust Property**" means all of the property and assets of the Trust;

"**Trustees**" has the meaning given thereto in the Recitals;

“**Trustees’ Regulations**” means the regulations adopted by the Trustees pursuant to Section 4.3 or Section 9.10 from time to time;

“**Unit**” means, as the context may require, a Class A Unit, a Class C Unit, a Class D Unit, a Class E Unit, a Class F Unit, a Class G Unit, a Class I Unit, or a Class U Unit as described in Article 8, and “**Units**” means any one or more of them, but for greater certainty, does not include a Special Voting Unit.

“**Unit Certificate**” means a certificate, in the form stipulated by Article 8, evidencing one or more Units, issued and certified in accordance with the provisions hereof;

“**Unit Class Expenses**” means the expenses of the Trust (and where the context requires, its Subsidiaries) allocable to a specific class of Units. Specifically, for the Canadian Dollar Units, these Unit Class Expenses include the cost to purchase derivatives in connection with the Canadian Dollar Unit Distribution Hedge;

“**Unit Redemption Date**” means the date on which a Redemption Notice is given;

“**Unit Redemption Notice**” has the meaning given thereto in Section 8.11(b)(i);

“**United States**” or “**U.S.**” means the United States of America;

“**Unitholder**” means a holder of record of any Units, and any reference to a Unitholder in the context of such Unitholder’s right to vote at a meeting of Unitholders also includes a holder of Special Voting Units.

“**U.S. Dollar Units**” means the Class U Units, Class E Units and Class G Units, and any other class of beneficial interests in the Trust denominated in U.S. dollars;

“**U.S. MF REIT**” mean Starlight U.S. Residential (Multi-Family) REIT Inc., a corporation formed under the laws of Maryland;

“**U.S. REITs**” means, collectively, the U.S. MF REIT and the U.S. SF REIT;

“**U.S. SF REIT**” means Starlight U.S. Residential (Single-Family) REIT Inc., a corporation formed under the laws of Maryland;

“**U.S. REIT Common Stock**” means the common stock not having par value of a U.S. REIT; and

“**U.S. REIT Notes**” means the subordinated unsecured promissory notes that may be issued by the U.S. REITs to the applicable Holding LPs.

1.2 Tax Act

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

1.3 Day Not a Business Day

Except as expressly specified in this Declaration of Trust, in the event that any day on which any amount is to be determined or any action is required to be taken hereunder is not a Business Day, then such amount shall be determined or such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day. Notwithstanding the foregoing, this Section 1.3 is not applicable to Sections 12.1 and 12.3.

1.4 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the headings are for convenience only and do not form a part of this Declaration of Trust nor are they intended to interpret, define or limit the scope, extent or intent of this Declaration of Trust or any provision hereof;

(b) all accounting terms not otherwise defined herein have the meanings assigned to them and all computations made pursuant to this Declaration of Trust, except as expressly provided otherwise, shall be made in accordance with Canadian generally accepted accounting principles applied on a consistent basis;

(c) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made pursuant thereto;

(d) unless otherwise noted, all references to currency are to Canadian dollars;

(e) any reference to an entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;

(f) words importing the masculine gender include the feminine gender or neuter gender words in the singular number include the plural and words in the plural number include the singular; and

(g) “including” means including, without limitation.

1.5 Time of Essence

Time shall be of essence in this Declaration of Trust.

ARTICLE 2
DECLARATION OF TRUST

2.1 Establishment of the Trust

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

2.2 Initial Contribution

The Trustees hereby acknowledge and confirm that the Initial Unitholder has made the Initial Contribution to the Trustees for the purpose of establishing the Trust.

2.3 Name

The name of the Trust is Starlight U.S. Residential Fund. As far as practicable and except as otherwise provided in this Declaration of Trust, the Trustees shall conduct the affairs of the Trust, hold property, execute all documents and take all legal proceedings under that name. For greater certainty, where any reference is made in this Declaration of Trust, or any other instrument to which the Trust or the Trustees, as trustees of the Trust, are a party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty by or with respect to (i) the Trust; or (ii) the Trustees, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding taken by or against, or a covenant, representation or warranty by or with respect to the Trustees as trustees of the Trust.

2.4 Use of Name

Should the Trustees determine that the use of the name Starlight U.S. Residential Fund is not practicable, legal or convenient, they may use such other designation or they may adopt such other name for the Trust as they deem appropriate and the Trust may hold property and conduct its activities under such other designation or name.

2.5 Office

The registered and head office of the Trust shall be located at 3280 Bloor Street West, Centre Tower, Suite 1400, Toronto, Ontario, unless changed by the Trustees to another location in Canada. The Trust may have such other offices or places for the conduct of its affairs as the Trustees may from time to time determine as necessary or desirable.

2.6 Nature of the Trust

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

(a) Applicable Laws or other requirements imposed by applicable securities or other regulatory authorities; and

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

The Trust is not and is not intended to be, shall not be deemed to be and shall not be treated, as a general partnership, limited partnership, syndicate, association, joint venture, company, corporation or joint stock company nor shall the Trustees or the Unitholders or any of them or any officers or other employees of the Trust or any one of them for any purpose be, or be deemed to be, treated in any way whatsoever to be, liable or responsible hereunder as partners or joint venturers. Neither the Trustees nor any officer or other employee of the Trust shall be, or be deemed to be, agents of the Unitholders. The relationship of the Unitholders to the Trustees, to the Trust and to the Trust Property shall be solely that of beneficiaries of the Trust and their rights shall be limited to those conferred upon them by this Declaration of Trust. The Trust is intended to be a "unit trust" and a "mutual fund trust", in each case within the meaning of the Tax Act.

2.7 Investment Objectives

The Trust has been established for the purposes of:

(a) directly or indirectly acquiring, owning, and operating a portfolio primarily composed of income-producing residential properties that demonstrate value based on pricing and local supply and demand trends to achieve the Trust's target metrics, and are located primarily in Arizona, California, Colorado, Florida, Georgia, Idaho, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Texas, Utah and Washington;

(b) making stable monthly cash distributions; and

(c) increasing net operating income through active asset management, which may include high return, value-add capital expenditures, lease up of non-stabilized properties, utilizing revenue management software to increase rental rates, revenue enhancement through ancillary income opportunities and operating expenses reductions, best-in-class property management and economies of scale.

The above shall be known, collectively, as the "**Investment Objectives**". The Trust shall invest in Investment LP Class A Units and common shares of the Investment GPs, in accordance with the Investment Restrictions and Operating Policies set out in Article 7 hereof, to seek to achieve the Investment Objectives. The Trust shall, in addition, have the power to do any and every act and thing necessary, proper, convenient, ancillary or incidental to the accomplishment of its Investment

Objectives, including for the avoidance of doubt holding temporary investments as permitted by Section 7.1(d), subject at all times to the provisions of Article 7.

2.8 Rights of Unitholders

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

ARTICLE 3
TRUSTEES

3.1 Number

There shall be a minimum of three and a maximum of 10 Trustees. The number of Trustees within such minimum and maximum numbers may be changed by the Trustees or the Unitholders from time to time at their discretion.

3.2 Qualifications of Trustees

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

3.3 Residency of Trustees

A majority of the Trustees must be Residents. If at any time a majority of the Trustees are not Residents because of the death, resignation, deemed resignation, insolvency, bankruptcy, adjudicated incompetence or incapacity, removal or change in circumstance of any Trustee who was a Resident Trustee, or there are no Trustees who are Residents, the Trustee or Trustees who are Non-Residents shall, immediately before that time, be deemed to have resigned and shall cease to be Trustees with effect from the time of such deemed resignation and the remaining Trustees shall appoint a sufficient number of Resident Trustees so that following such appointment a majority of the Trustees are Residents. Failing such appointment, including in the event that there are no Trustees remaining on the board of Trustees, then the Manager shall appoint one or more Trustees so that following such appointment a majority of the Trustees are Residents and, failing such appointment, any Unitholder, or officer of the Trust or the Auditors, as the case may be, may apply to the Superior Court of Justice of Ontario for an order appointing one or more Trustees so that following such appointment a majority of the Trustees are Residents, to act on such terms as the court may order. Any Trustee who is a Resident who proposes to become a Non-Resident shall notify the other Trustees thereof as soon as reasonably practicable and, if such change in residency results in less than a majority of the Trustees, or less than a majority of the Trustees of any committee of Trustees, being Residents, such Trustee shall resign as a Trustee or as a member of such committee of Trustees, as the case may be, and, given the requirements of Section 11.1, if such Trustee is also a member of the Audit Committee, he or she must also resign as a member of the Audit Committee.

3.4 Appointment of Trustees

The appointment of the Trustees named of the First Part above is hereby confirmed and the term of office applicable to each Trustee shall expire at the termination of the Trust. Trustees removed pursuant to Section 3.5(b) shall be replaced by a Trustee appointed by the Manager. In the event that a Trustee resigns or otherwise ceases to be a Trustee other than pursuant to Section 3.5(b), the Manager may appoint one or more additional Trustees to fill such vacancy or vacancies for a term expiring at the termination of the Trust. In the event that an independent Trustee ceases to be a Trustee, such vacancy shall be filled by a person that would qualify as an Independent Trustee.

3.5 Resignations, Removal, Incapacity and Death of Trustees

(a) A Trustee may resign at any time by an instrument in writing signed by the Trustee and delivered or mailed to the board of Trustees or the Chief Executive Officer or, if there is no Chief Executive Officer, the Corporate Secretary, or if there is no Corporate Secretary, the Manager. A resignation of a Trustee becomes effective 30 days following receipt by the Trust of a written resignation, or at the time specified in the resignation, whichever is later, provided that if, upon the resignation becoming effective, the number of remaining Trustees would be less than the number necessary to constitute a quorum for a meeting of Trustees, the resignation is not effective until the resigning Trustee's successor is duly appointed as a Trustee, except in the case of a deemed resignation under Section 3.3 which shall be effective at the time therein prescribed.

(b) A Trustee may be removed at any time with or without cause by the Manager. Any removal of a Trustee shall take effect immediately following the aforesaid vote or resolution or at any later time specified in the resolution without need for prior accounting, and any Trustee so removed shall be so notified by the Chief Executive Officer or another officer of the Trust or if there is no officer of the Trust, by any remaining Trustee or if there is no Trustee then remaining, by the Manager, following such removal.

(c) Upon the resignation or removal of any Trustee, or such Trustee otherwise ceasing to be a Trustee (in each case, a "**Retiring Trustee**"), such Retiring Trustee shall cease to have the rights, privileges and powers of a Trustee hereunder, shall account to the remaining Trustees as they may require for all property which he or she holds as Trustee and do all such other things as may be required pursuant to Section 3.7(b) hereof; provided however that notwithstanding any other provision of this

Declaration of Trust, each such Retiring Trustee shall always continue to have the protections afforded to Trustees in Article 17.

(d) Upon the incapacity or death of any Trustee, such Retiring Trustee's legal representative shall execute and deliver on such Trustee's behalf such documents as the remaining Trustees may require as provided in this Section 3.5. In the event that a Retiring Trustee or his or her legal representatives, as applicable, are unable or unwilling to execute and deliver such required documents, each of the remaining Trustees is hereby appointed as the attorney of such Trustee for the purpose of executing and delivering such required documents. This power of attorney granted to each of the remaining Trustees is not intended to be a continuing power of attorney within the meaning of the *Substitute Decisions Act, 1992* (Ontario), exercisable during a Trustee's incapacity to manage property, or any similar power of attorney under equivalent legislation in any of the provinces or territories of Canada (a "**CPOA**"). The execution of this power of attorney will not terminate any CPOA granted by the Trustee previously and will not be terminated by the execution by the Trustee in the future of a CPOA, and the Trustee hereby agrees not to take any action in the future which results in the termination of this power of attorney.

3.6 Consent to Act

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

"To: Starlight U.S. Residential Fund (the "Trust")
And to: The Trustees thereof

The undersigned hereby certifies that he or she or it is/is not a resident of Canada within the meaning of the *Income Tax Act* (Canada) and consents to act as a Trustee of the Trust and hereby agrees, upon the later of the date of this consent and the date of the undersigned's appointment as a Trustee of the Trust, to thereby become a party, as a Trustee, to the Declaration of Trust dated the ● day of ●, 2021, as amended, supplemented or amended and restated from time to time, constituting the Trust."

(b) Upon the later of an individual being appointed a Trustee hereunder and executing and delivering to the Trust a form of consent substantially as set forth in Section 3.6(a), such individual shall become a Trustee hereunder and shall be deemed to be a party (as a Trustee) to this Declaration of Trust.

3.7 Ceasing to Hold Office

(a) A Trustee ceases to hold office when:

(i) the Trustee ceases to be duly qualified to act as a Trustee as provided under Section 3.2;

(ii) the Trustee ceases to be a Trustee as provided under Section 3.3;

(iii) the Trustee dies or resigns in accordance with Section 3.5; or

(iv) the Trustee is removed in accordance with Section 3.5.

(b) Upon a Trustee ceasing to hold office as such hereunder, such Trustee shall cease to be a party (as a Trustee) to this Declaration of Trust; provided, however, that such Trustee shall continue to be entitled to be paid any amounts owing by the Trust to the Trustee and to the benefits of the indemnities provided in Sections 17.1, 17.2 and 17.3. Such Trustee shall execute and deliver such documents as the remaining Trustees shall reasonably require for the conveyance of any Trust Property held in that Trustee's name, shall account to the remaining Trustees as they may reasonably require for all Trust Property which that Trustee holds as Trustee, shall resign from all directorship or similar positions held by such Trustee in any entity in which the Trust has an interest and shall thereupon be discharged as Trustee. Upon the incapacity or death of any Trustee, his or her legal representative shall execute and deliver on his or her behalf such documents as the remaining Trustees may reasonably require as provided in this Section 3.7(b). In the event that a Trustee or his or her legal representatives, as applicable, are unable or unwilling to execute and deliver such required documents, each of the remaining Trustees is hereby appointed as the attorney of such Trustee for the purposes of executing and delivering such required documents. This power of attorney granted to each of the remaining Trustees is not intended to be a CPOA. The execution of this power of attorney will not terminate any CPOA granted by the Trustee previously and will not be terminated by the execution by the Trustee in the future of a CPOA, and the Trustee hereby agrees not to take any action in the future which results in the termination of this power of attorney.

3.8 Vacancies by Trustees

The death, resignation, bankruptcy, adjudicated incompetence or other incapacity to exercise the duties of the office of a Trustee or the removal or other cessation to hold office of a Trustee shall not operate to annul this Declaration of Trust or affect the continuity of the Trust. Until vacancies are filled, the remaining Trustee or Trustees (even if less than a quorum but subject to compliance with Section 3.3) may exercise the powers of the Trustees hereunder. In the case of a vacancy, the Manager, in the case of a vacancy pursuant to Section 3.5(b), or, so long as they constitute a quorum and a majority of the Trustees constituting such quorum are Residents, a majority of the Trustees continuing in office, in the case of a vacancy other than pursuant to Section 3.5(b), may fill such vacancy. If there is not such a quorum of Trustees, then a new Trustee may be appointed by the Manager.

3.9 Successor and Additional Trustees

The right, title and interest of the Trustees in and to the Trust Property and the rights of the Trustees to control and exclusively administer the Trust and all other rights of the Trustees at law or under this Declaration of Trust shall vest automatically in all individuals who may hereafter become Trustees upon their due election or appointment and qualification and acceptance thereof without any further act and they shall thereupon have all the rights, privileges, powers, obligations and immunities of Trustees hereunder. Such right, title and interest shall vest in the Trustees whether or not conveyancing documents have been executed and delivered pursuant to Section 3.7 or otherwise.

3.10 Compensation and Other Remuneration

Trustees, other than management, shall receive such fees and other reasonable compensation (including fees for serving as Chair of the Trust, for serving as chair of any committee of Trustees and for attendance at each meeting of Trustees and of each committee of Trustees) as the Trustees (or a committee of Trustees to which the power to make such a determination has been delegated) may determine from time to time. The Trustees will be reimbursed for their reasonable travel and ancillary expenses properly incurred for attending meetings or as previously approved by the board of Trustees, up to a maximum amount per meeting as set by the Trustees.

Each of the Trustees, either directly or indirectly, shall also be entitled to receive remuneration for services rendered to the Trust in any other capacity. Such services may include services as an officer of the Trust, legal, accounting or other professional services or services as a broker, transfer agent or underwriter, whether performed by a Trustee or any Person affiliated with a Trustee. Trustees who are officers or employees of the Trust or its subsidiaries shall not be entitled to receive any remuneration for their services as Trustees but shall be entitled to reimbursement from the Trust of their reasonable travel and ancillary expenses as set forth above.

For greater certainty, Trustees shall not receive additional remuneration for acting as directors of any of the Trust’s subsidiaries.

3.11 Validity of Acts

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

ARTICLE 4
TRUSTEES’ POWERS AND DUTIES

4.1 General Powers

The Trustees, subject only to the terms and conditions contained in this Declaration of Trust, including Sections 7.1, 7.2, 9.6 and 9.7, shall have, without further or other authorization and free from any control or direction on the part of the Unitholders, full, absolute and exclusive power, control and authority over the Trust Property and over the operations of the Trust to the same extent as if the Trustees were the sole and absolute legal and beneficial owners of such Trust Property in their own right, to do all such acts and things as in their sole judgment and discretion are necessary or incidental to, or desirable for, the carrying out of any of the purposes of the Trust or the conducting of the affairs of the Trust. In construing the provisions of this Declaration of Trust, there shall be a presumption in favour of the power and authority having been granted to the Trustees. The enumeration of any specific power or authority herein shall not be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustees. Except as specifically required by such laws, the Trustees shall in carrying out investment activities not be in any way restricted by the provisions of the laws of any jurisdiction limiting or purporting to limit investments which may be made by trustees. Without limiting the generality of the foregoing, the Trustees may, subject to the terms and conditions contained in this Declaration of Trust, make any investments without being required to adhere to all of, or any particular portion of the investment criteria or diversification requirements set forth in the *Trustee Act* (Ontario), as replaced or amended from time to time, including 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.

Without limiting the generality of this Section 4.1, the Trust is authorized to complete the transactions set forth in the Prospectus, including to (i) prepare, file, execute and deliver the Prospectus and all other agreements, documents and instruments as may be necessary or, in the Trustees' discretion, desirable to complete the Offering; (ii) indirectly acquire the Properties and pay the purchase price therefor; (iii) enter into the Material Agreements to which it is a party; and (iv) negotiate and enter into any financing arrangements, including those described in the Prospectus; provided that the Trust is not required to complete the Offering unless and until the Trustees are satisfied with the terms and conditions thereof.

4.2 <u>Specific Powers and Authorities</u>

Subject only to the terms and conditions contained in this Declaration of Trust, including Sections 7.1, 7.2, 9.6 and 9.7, and in addition to any powers and authorities conferred by this Declaration of Trust or which the Trustees may have by virtue of any present or future statute or rule of law, the Trustees, without any action or consent by the Unitholders, shall have and may exercise, on behalf of the Trust or otherwise, at any time and from time to time the following powers and authorities which may or may not be exercised by them in their sole judgment and discretion and in such manner and upon such terms and conditions as they may from time to time deem proper:

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

(b) to hold the Trust Property in safekeeping, retaining moneys, securities, property, assets or investments, and investing moneys from time to time forming part of the Trust Property;

(c) to ensure the Net Subscription Proceeds are, directly or indirectly, invested in Investment LP Class A Units, Holding LPs Units, U.S. REITs Common Stock and U.S. REITs Notes (if any), and entering into the Canadian Dollar Unit Distribution Hedge, as described herein;

(a) to borrow money from or incur indebtedness to any Person, to guarantee, indemnify or act as surety with respect to payment or performance of obligations of owners of Trust Property, and to enter into, assign, convey, transfer, mortgage, subordinate, pledge, grant security interests in, encumber or hypothecate the Trust Property to secure any of the foregoing;

(b) 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;

(c) to lend money or other Trust Property, whether secured or unsecured;

(d) to pay properly incurred expenses out of Trust Property;

(e) to open, operate and close bank accounts and other similar credit, deposit and banking arrangements, to negotiate and sign banking and financing contracts and agreements and deposit monies;

(f) to possess and exercise rights, powers and privileges pertaining to ownership of or interests in Trust Property;

(g) to hold legal title to Trust Property;

(h) where desirable, to make or cause to be made application for the listing or quotation on any stock exchange or market of one or more classes of Units, and to do all things which in the opinion of the Board may be necessary or desirable to effect or maintain such listing or quotation;

(i) to reinvest income and gains of the Trust and taking other actions besides the mere protection and preservation of the Trust Property;

(j) to appoint the bankers of the Trust;

(k) to ensure compliance with Applicable Laws;

(l) to prepare and file or cause to be prepared and filed any and all requisite returns, reports and filings;

(m) to monitor and protect the Trust's tax status as a "unit trust" and a "mutual fund trust" within the meaning of the Tax Act;

(n) to provide all requisite office accommodation and associated facilities;

(o) to provide or cause to be provided to the Trust all other administrative and other services and facilities required by the Trust, including property appraisal services;

and to maintain or cause to be maintained complete records of all transactions in respect of the Trust Property;

(p) to prescribe any instrument provided for or contemplated by the Declaration of Trust;

(q) to remit distributions to Unitholders;

(r) to collect, sue for and receive all sums of money or other property or items that are believed due to the Trust and obtain security, including encumbrances on assets, to secure the full payment of monies owed to the Trust and the performance of all obligations in favour of the Trust, and to exercise all of the rights of the Trust, and to perform all of the obligations of the Trust, under such security;

(s) to possess and exercise all the rights, powers and privileges pertaining to the ownership of all or any part of the Trust Property, including the Investment LP Class A Units, to the same extent that any Person might, unless otherwise limited herein;

(t) where reasonably required, to engage, employ, contract with or retain on behalf of the Trust any Persons as agents, representatives, employees or independent contractors in one or more capacities;

(u) to appoint the auditors of and registrar and transfer agent for the Trust;

(v) except as prohibited by law, to delegate from time to time to the Trust's employees, consultants, agents and other Persons including the Manager, the doing of such things and the exercise of such powers as the Board may from time to time deem expedient, so long as any such delegation is not inconsistent with any of the provisions of this Declaration of Trust and subject at all times to the general control and supervision of the Board as provided for herein;

(w) to issue and redeem Units pursuant to the terms and conditions of this Declaration of Trust;

(x) pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Board in connection with the Trust Property, undertaking or income of the Trust, or imposed upon or against the Trust Property in connection with the undertaking or income of the Trust, or any part thereof, and to settle or compromise disputed tax liabilities, and for the foregoing purposes to make such returns, take such deductions, and make such designations, elections, allocations and determinations in respect of income and capital gains of the Trust, or any other amounts distributed, allocated or made payable to Unitholders in a year and any other matter as shall be permitted under the Tax Act and analogous provisions of any provincial income tax legislation, and to do all such other acts and things as may be deemed by the Board in its sole discretion to be necessary, desirable or convenient;

(y) in addition to the mandatory indemnification provided for in Sections 17.1, 17.2 and 17.3, to the extent permitted by law, to indemnify, or enter into agreements with respect to the indemnification of, any Person with whom the Trust has dealings, including the Trustees, the depository, the Transfer Agent or any escrow agent, to such extent as the Trustees shall determine;

(z) to do all such acts and things, and to execute, deliver and perform the obligations of the Trust under all such agreements and instruments as are necessary to complete the Offering or as are contemplated by the Prospectus; and

(aa) to do all such other acts and things and execute all such agreements and other instruments as are incidental to the foregoing, and to exercise all powers that are necessary or useful to carry on the purpose and activities of the Trust, to promote or advance any of the purposes or objectives for which the Trust is formed and to carry out the provisions of this Declaration of Trust whether or not herein specifically mentioned.

4.3 Further Powers of the Trustees

The Trustees shall have the power to prescribe any form provided for or contemplated by this Declaration of Trust. The Trustees may make, adopt, amend, or repeal regulations containing provisions relating to the Trust, the conduct of its affairs, the rights or powers of the Trustees and the rights or powers of the Unitholders or officers, provided that such regulations shall not be inconsistent with law or with this Declaration of Trust and not, in the opinion of the Trustees, be prejudicial to Unitholders. The Trustees shall also be entitled to make any reasonable decisions, designations or determinations not inconsistent with law or with this Declaration of Trust which they may determine are necessary or desirable in interpreting, applying or administering this Declaration of Trust or in administering, managing or operating the Trust. To the extent of any inconsistency between this Declaration of Trust and any regulation, decision, designation or determination made by the Trustees, this Declaration of Trust shall prevail and such regulation, decision, designation or determination shall be deemed to be modified to eliminate such inconsistency. Any regulations, decisions, designations or determinations made in accordance with this Section 4.3 shall be conclusive and binding upon all Persons affected thereby.

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

4.4 Banking

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

4.5 Standard of Care

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

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

4.6 Fees and Expenses

As part of the expenses of the Trust, the Trustees may pay or cause to be paid out of the Trust Property, reasonable fees, costs and expenses incurred in connection with the administration and management of the Trust, including Real Property and brokerage commissions in respect of investments and dispositions of Real Property made by the Trust, all necessary insurance expenses, fees of auditors, accountants, lawyers, engineers, appraisers and other agents, consultants and professional advisors employed by or on behalf of the Trust, fees of stock exchanges and the cost of reporting or giving notices to Unitholders. All costs, charges and expenses properly incurred by the Trustees on behalf of the Trust shall be payable out of the Trust Property.

4.7 Reliance Upon Trustees

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

4.8 Determinations of Trustees Binding

All determinations of the Trustees which are made in good faith with respect to any matters relating to the Trust, including whether any particular investment or disposition meets the requirements of this Declaration of Trust, shall be final and conclusive and shall be binding upon the Trust and all Unitholders (and, where the Unitholder is a Plan, or other similar fund or plan registered under the Tax Act, upon plan beneficiaries and plan holders past, present and future) and Units and Special Voting Units of the Trust shall be issued and sold on the condition and understanding that any and all such determinations shall be binding as aforesaid.

4.9 Limitations on Liability of Trustees

(a) Subject to the standard of care set forth in Section 4.5, none of the Trustees nor any officers, employees or agents of the Trust shall be liable to any Unitholder or any other Person in tort, contract or otherwise for any action taken or not taken in good faith in reliance on any documents that are, *prima facie*, properly executed; for any depreciation of, or loss to, the Trust incurred by reason of the sale of any security; for the loss or disposition of monies or securities; for any action or failure to act by any Person to whom the Trustees are permitted to delegate and have delegated any of their duties hereunder; or for any other action or failure to act including the failure to compel in any way any former Trustee to redress any breach of trust or any failure by any Person to perform obligations or pay monies owed to the Trust, unless such liabilities arise out of a breach of the standard of care, diligence and skill as set out in Section 4.5. If the Trustees have retained an appropriate expert, advisor or legal counsel with respect to any matter connected with their duties under this Declaration of Trust, the Trustees may act or refuse to act based on the advice of such expert, advisor or legal counsel and, notwithstanding any provision of this Declaration of Trust, including the standard of care, diligence and skill set out in Section 4.5 hereof, the Trustees shall not be liable for and shall be fully protected from any action or refusal to act based on the advice of any such expert, advisor or legal counsel which it is reasonable to conclude is within the expertise of such expert or advisor to give.

(b) The Trustees shall not be subject to any personal liability for any debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses against or with respect to the Trust arising out of anything done or permitted or omitted to be done in respect of the execution of the duties of the office of Trustees for or in respect to the affairs of the Trust unless such Trustee shall have failed to meet the standard of care set out in Section 4.5. No property or assets of the Trustees, owned in their personal capacity or otherwise, will be subject to any levy, execution or other enforcement procedure with regard to any obligations under this Declaration of Trust or under any other related agreements unless such Trustee shall have failed to meet the standard of care set out in Section 4.5. No recourse may be had or taken, directly or indirectly, against the Trustees in their personal capacity or against any incorporator, shareholder, director, officer, employee or agent of the Trustees or any successor of the Trustees unless such Trustee shall have failed to meet the standard of care set out in Section 4.5. The Trust shall be solely liable therefor and resort shall be had solely to the Trust Property for payment or performance thereof unless such Trustee shall have failed to meet the standard of care set out in Section 4.5.

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

4.10 <u>Reliance</u>

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

4.11 <u>Exculpatory Clauses in Instruments</u>

The Trustees must use reasonable means where practicable to inform all Persons having dealings with the Trust of the limitations of liability set forth in Sections 4.9, 17.1, 17.2, 17.4, 17.5, and must use reasonable means where practicable to cause to be inserted in any written agreement, undertaking or obligation made or issued on behalf of the Trust an appropriate statement of the disavowal and limitation of liability as set forth in Sections 4.9, 17.1, 17.2, 17.4, 17.5, but the omission of such statement from any such instrument will not render any Trustee, any Unitholder or officer, consultant or agent of the Trust liable to any Person, nor will any Trustee or any Unitholder or any officer of the Trust be liable to any Person for such omission. If, notwithstanding this provision, any Trustee, Unitholder or any officer of the Trust is held liable to any other Person by reason of the omission of such statement from any such agreement, undertaking or obligation, such Trustee, Unitholder or officer will be entitled to indemnity out of the Trust Property to the full extent of such liability and the costs of any litigation or other proceedings in which such liability has been determined, including the fees and disbursements of counsel.

4.12 <u>Liability under Contracts</u>

Any written instrument creating an obligation with respect to the Trust will be conclusively taken to have been executed or done by a Trustee only in the capacity of a Trustee under this Declaration of Trust. Any written instrument creating an obligation of the Trust will contain a disavowal of liability upon and waiver of claim against the Trustee or any Unitholder or Special Voting

Unitholder and indicate that the obligations under such instrument are not personally binding upon, nor will resort be had to the private property of any Trustee, any Unitholder or Special Voting Unitholder, or any director, officer, employee or agent of the Unitholder or Special Voting Unitholder, as the case may be, but only the Trust Property or a specific portion thereof will be bound. The omission of a provision of the nature described in this Section 4.12 will not operate to impose personal liability on any Trustee, any Unitholders or Special Voting Unitholders, or any of the officers, employees, agents, heirs, executors or personal representatives of any of them.

4.13 <u>Conflict of Interest</u>

(a) Subject to Section 18.20, if a Trustee or officer of the Trust:

(i) is a party to a material contract or transaction or proposed material contract or transaction with the Trust (or an affiliate thereof), including a material contract or transaction involving the making or disposition of any investment in Real Property or a joint venture agreement; or

(ii) is a director or officer of, or an individual acting in a similar capacity, or otherwise has a material interest in, any Person who is a party to a material contract or transaction or proposed material contract or transaction with the Trust (or an affiliate thereof),

such Trustee or officer of the Trust shall disclose in writing to the Trustees or request to have entered into the minutes of meetings of the Trustees the nature and extent of such interest as follows:

(iii) the disclosure required in the case of a Trustee shall be made:

(A) at the meeting of Trustees at which a proposed contract or transaction is first considered;

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

(C) if the Trustee 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

(D) if a Person who is interested in a contract or transaction later becomes a Trustee, at the first such meeting after he or she becomes a Trustee; and

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

(A) forthwith after such Person becomes aware that the contract or transaction or proposed contract or transaction is to be considered or has been considered at a meeting of the Trustees;

(B) if such Person becomes interested after a contract is made or transaction is entered into, forthwith after such Person becomes aware that he or she has become so interested; or

(C) if a Person who is interested in a contract or a transaction later becomes an officer of the Trust, forthwith after he or she becomes an officer of the Trust.

(b) Notwithstanding Sections 4.13(a)(i) and 4.13(a)(ii), where this Section 4.13 applies to any Person in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the affairs of the Trust, would not require approval by the Trustees or the Unitholders, such Person shall disclose in writing to the Trustees or request to have entered into the minutes of meetings of the Trustees the nature and extent of such Person's interest forthwith after such Person becomes aware of the contract or transaction or proposed contract or transaction.

(c) A Trustee referred to in this Section 4.13 shall not vote on any resolution to approve the said contract or transaction unless the contract or transaction is:

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

(ii) one for indemnity of such Trustee under Sections 17.1, 17.2 and 17.3 hereof or the purchase of liability insurance,

provided, however, that the presence of such Trustee at the relevant meeting or the written recognition by such Trustee of any resolution in writing shall be counted toward any quorum requirement or requirement that at least a minimum number of Trustees act.

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

(e) Where a material contract is made or a material transaction is entered into between the Trust and a Trustee or an officer of the Trust, or between the Trust and another Person in which a Trustee or an officer of the Trust is a director or officer or in which he or she has a material interest:

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

(ii) the material contract or transaction is neither void nor voidable, by reason only of that relationship or by reason only that such Person is present at or is counted to determine the presence of a quorum at the meeting of the Trustees that authorized the contract or transaction,

if such Person disclosed such Person's interest in accordance with this Section 4.13, 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 4.13, but without limiting the effect of Section 4.13(c) hereof, a Trustee or an officer of the Trust, acting honestly and in good faith, is not accountable to the Trust, Unitholders or Special Voting Unitholders for any profit or gain realized from any such material contract or transaction by reason only of such Person holding such office or position, and the material contract or transaction, if it was reasonable and fair to the Trust at the time it was approved, is not by reason only of such Person's interest therein void or voidable, where:

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

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

(g) Subject to Sections 4.13(c), 4.13(e) and 4.13(f) hereof, where a Trustee or an officer of the Trust fails to disclose such Person's interest in a material contract or transaction in accordance with this Declaration of Trust or otherwise fails to comply with this Section 4.13, the Trustees or any Unitholder or Special Voting Unitholder, in addition to exercising any other rights or remedies in connection with such failure exercisable at law or in equity, may apply to a court for an order setting aside the contract or transaction and directing that such Person account to the Trust for any profit or gain realized.

4.14 <u>Conditions Precedent</u>

The obligation of the Trustees to commence or continue any act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding shall be conditional upon sufficient funds being available to the Trustees from the Trust Property to commence or continue such act, action, suit or proceeding or to represent the Trust in any action, suit or proceeding and an indemnity reasonably satisfactory to the Trustees to protect and hold harmless the Trustees against the costs, charges and expenses and liabilities to be incurred therein and any loss and damage the Trust may suffer by reason thereof. None of the provisions contained in this Declaration of Trust shall require the Trustees to expend or risk their own funds or otherwise incur financial liability in the performance of their duties or in the exercise of any of their rights or powers unless they are given an indemnity and funding satisfactory to the Trustees, acting reasonably.

ARTICLE 5
OFFICERS OF THE TRUST

5.1 General

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

5.2 Chair of Trustees

The Chair of Trustees shall be appointed from among the Trustees. When present, the Chair of Trustees shall be chairperson of meetings of Trustees and Unitholders and shall have such other powers and duties as the Trustees may determine from time to time to manage the affairs of the board of Trustees and monitor the effectiveness of the Trustees.

5.3 Term of Office

The Chair of Trustees and any officer appointed by the Trustees shall hold such position until his or her successor is elected or appointed, provided, without prejudice to rights under any employment contract, that the Trustees may remove an officer from office at any time in their sole discretion.

5.4 Independent Contractors

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

ARTICLE 6
THE MANAGER

6.1 Management of the Trust

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

6.2 Services of Manager

The Manager shall have the full power and authority to administer, manage and control the matters enumerated in the Management Agreement until the termination thereof and to do or cause to be done any act, take or cause to be taken any proceeding, make or cause to be made any decision and execute and deliver or cause to be executed and delivered any instrument, deed, agreement or document necessary, appropriate or incidental thereto. No person dealing with the Trust is required to enquire into the authority of the Manager to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the Trust. The Manager may execute any document or instrument under seal or without a seal as it deems appropriate notwithstanding whether or not any document authorizing it to act on behalf of the Trust was executed under seal. Other than as set out in the Management Agreement or as otherwise set out in this Declaration of Trust, the Manager shall not have any power or authority to act on behalf of the Trust.. If requested by the Trust, the Manager shall provide services to any Subsidiary or subsidiaries of the Trust, provided that if such services are not contemplated by the Management Agreement, the Manager may charge additional fees for such services.

6.3 Liability of Trustees

Subject to Applicable Laws, the Trustees shall have no liability or responsibility for any matters delegated to the Manager hereunder or under the Management Agreement, and the Trustees, in relying on the Manager, shall, in respect of any matters so delegated to the Manager, be deemed to have complied with their obligations under Section 4.5 and shall be entitled to the benefit of the indemnity provided in Section 17.1.

ARTICLE 7
INVESTMENT RESTRICTIONS AND OPERATING POLICIES

7.1 Investment Restrictions

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

(a) the Trust may only invest, directly or indirectly, in interests (including fee ownership and leasehold interests) in residential real estate properties located in the U.S. and assets ancillary thereto necessary for the operation of such real estate and such other activities as are consistent with the other investment restrictions in this Section 7.1 (the "**Investment Restrictions**"), provided that the Trust may invest up to 25% of the Investable Funds in Real Properties which do not comply with the foregoing;

(b) neither the appraised value nor the purchase price of the interest of the Trust in any single Property shall exceed US$125 million unless approved by the Board;

(c) the Trust may make its investments and conduct its activities, directly or indirectly, through an investment in one or more Persons on such terms as the Trustees may from time to time determine;

(d) except for temporary investments held in cash, deposits with a Canadian chartered bank or trust company registered under the laws of a province of Canada, deposits with a savings institution, trust company, credit union or similar financial institution that is organized or chartered under the laws of the U.S. or a state of the U.S., short-term government debt securities or money market instruments maturing prior to one year from the date of issue and except as permitted pursuant to the Investment Restrictions and Operating Policy of the Trust, the Trust may not hold securities of a Person other than to the extent such securities would constitute an investment in Real Property (as determined by the Board) and provided further that, notwithstanding anything contained in this Declaration of Trust to the contrary, but in all events subject to paragraph (h) below, the Trust may hold securities of a Person: (i) acquired in connection with the carrying on, directly or indirectly, of the Trust's activities or the holding of its assets; or (ii) which focuses its activities primarily on the activities described in paragraph (a) above, provided in the case of any proposed investment or acquisition which would result in the beneficial ownership of more than 10% of the outstanding securities of an issuer (the "**Acquired Issuer**") on a fair market value basis, except for investments referred to in paragraph (a) or investments held by the Trust, directly or indirectly, following the acquisition of the Initial Portfolio, the investment is made for the purpose of subsequently effecting the merger or combination of the business and assets of the

Trust and the Acquired Issuer or for otherwise ensuring that the Trust will Control the business and operations of the Acquired Issuer;

(e) 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;

(f) the Trust shall not invest in raw land for development, except for the purpose of the renovation or expansion of existing Properties;

(g) the Trust may invest in mortgages (including participating or convertible mortgages) and similar instruments where: (i) the Board has approved such investment; (ii) the Real Property which is security therefor is income-producing Real Property which otherwise meets the Investment Restrictions; (iii) the aggregate book value of the investments of the Trust in mortgages, after giving effect to the proposed investment, will not exceed 25% of the Investable Funds; (iv) such investments are not entered into for speculative purposes; and (v) the Board believes that such investments will provide the Trust with the opportunity to acquire the Property underlying such investment within one year from the date such investment is made;

(h) notwithstanding anything else contained in this Declaration of Trust, the Trust will not take any action, or acquire, retain or hold any investment in any entity or other property that would result in the Trust not qualifying as a "unit trust" and a "mutual fund trust", that would result in the Trust, the Investment LPs, the Holding LPs or any other investee of the Trust being a "SIFT Trust" or a "SIFT Partnership"; or that would result in any Units or Special Voting Units not being "qualified investments" for trusts governed by Plans, in each case within the meaning of the Tax Act;

(i) the Trust shall not invest more than 10% of the Investable Funds in securities of a publicly traded entity; and

(j) notwithstanding any other provisions of this Declaration of Trust, the Trust shall require each of the U.S. REITs to only make investments and adopt the Operating Policies and undertake activities that will allow the U.S. REITs to meet all requisite organizational, operational, income, asset and distribution requirements for each U.S. REIT to qualify as a real estate investment trust under the Code.

For the purpose of the foregoing Investment Restrictions, the assets, liabilities and transactions of a corporation or other entity wholly or partially-owned by the Trust, including the Investment LPs, Holding LPs and U.S. REITs, will be deemed to be those of the Trust and they will be accounted for in accordance with the methods prescribed by IFRS, except in the case of the Investment Restrictions described in Sections 7.1(h) and 7.1(j) above to the extent that such treatment would be inconsistent with the relevant requirements or interpretation of the Tax Act or the Code. In addition, any references in the foregoing Investment Restrictions to investment in Real Property will be deemed to include an investment in a joint venture arrangement that invests in Real Property.

7.2 Operating Policies

The operations and affairs of the Trust, each of the Investment LPs, each of the Holding LPs and each of the U.S. REITs are to be conducted in accordance with the following policies (the "**Operating Policies**"):

(a) the Trust shall not purchase, sell, market or trade in currency or interest rate futures contracts other than for hedging purposes where, for the purposes hereof, the term "hedging" has the meaning ascribed thereto by National Instrument 81-102 – *Investment Funds* adopted by the Canadian Securities Administrators, as replaced or amended from time to time;

(b) (i) any written instrument creating an obligation which is or includes the granting by the Trust of a mortgage; and

(ii) to the extent the Trustees determine to be practicable and consistent with their fiduciary duties to act in the best interests of the Trust, any written instrument which is, in the judgment of the Trustees, a material obligation,

shall contain a provision, or be subject to an acknowledgement to the effect, that the obligation being created is not personally binding upon, and that resort must not be had to, nor will recourse or satisfaction be sought from, by lawsuit or otherwise, the private property of any of the Trustees, Unitholders, annuitants or beneficiaries under a plan of which a Unitholder acts as a trustee or carrier, or officers, employees or agents of the Trust, but that only Trust Property or a specific portion thereof is bound; the Trust, however, is not required, but must use all reasonable efforts, to comply with this requirement in respect of obligations assumed by the Trust upon the acquisition of Real Property;

(c) the Trust may only engage in construction or development of Real Property to maintain its Real Properties in good repair or to improve the income-producing potential of properties in which the Trust has an interest;

(d) title to each Real Property shall be held by and registered in the name of any of the U.S. REITs, a corporation, a limited liability company, a partnership or other entity wholly-owned, directly or indirectly, by the Trust or any of the U.S. REITs or jointly-owned, directly or indirectly, by the Trust or any of the U.S. REITs, with joint venturers or in such other manner which, in the opinion of the Board, is commercially reasonable;

(e) the Trust shall not incur or assume any indebtedness if, after giving effect to the incurrence or assumption of such indebtedness, the total indebtedness of the Trust would be more than 75% of the Investable Funds provided that, if approved by the Board, the appraised value of the Properties may be used instead of Investable Funds for the purposes of this paragraph (e);

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

(g) in connection with the acquisition of a multi-family property, the Trust shall obtain a Phase I environmental site assessment of each Real Property to be acquired by it and, if the Phase I environmental site assessment report recommends that a further environmental site assessment be conducted, the Trust shall conduct such further environmental site assessments, in each case by an independent and experienced environmental consultant; as a condition to any acquisition such assessments shall be satisfactory to the Board;

(h) the Trust shall obtain a property condition assessment of each multi-family Real Property that it intends to acquire; and

(i) in connection with the acquisition of multi-family properties, the Trust shall obtain an independent appraisal of each such property, or an independent valuation of a portfolio of properties, that it intends to acquire.

For the purpose of the foregoing Operating Policies, the assets, liabilities and transactions of a corporation or other entity wholly or partially-owned by the Trust, including the Investment LPs, Holding LPs and U.S. REITs, will be deemed to be those of the Trust and they will be accounted for in accordance with the methods prescribed by IFRS. In addition, any references in the foregoing Operating Policies to investment in Real Property will be deemed to include an investment in a joint venture arrangement that invests in Real Property.

7.3 Appraisals

The Trusts will cause the U.S. REITs to obtain or update independent third party property appraisals on an annual basis and will report to Unitholders an adjusted aggregate appraised value of the Trust's assets on a per Unit and class by class basis.

7.4 Amendments to Investment Restrictions and Operating Policies

All of the Investment Restrictions set out in Section 7.1 and the Operating Policies contained in Section 7.2(e) may be amended only by Special Resolution. The remainder of the Operating Policies in Section 7.2 may be amended by Ordinary Resolution.

7.5 Tax Status

(a) The Trustees shall cause the Trust to elect, in its return of income for the first taxation year of the Trust pursuant to subsection 132(6.1) of the Tax Act, that the Trust be deemed to be a "mutual fund trust" for the purposes of the Tax Act from the date it was established and throughout such year, provided that prior to filing such return of income the Trust has sufficient Unitholders so as to be entitled to make such election and has otherwise complied with the requirements thereof.

(b) 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 "unit trust" and a "mutual fund trust", in each case within the meaning of the Tax Act.

7.6 Regulatory Matters

Notwithstanding the foregoing in this Article 7 if at any time a government or regulatory authority having jurisdiction over the Trust or any Trust Property shall enact any law, regulation or requirement which is in conflict with any Investment Restriction or Operating Policies of the Trust then in force (other than Sections 7.1(h) and 7.1(j)), such Investment Restriction or Operating Policies in conflict shall, if the Trustees on the advice of legal counsel to the Trust so resolve, be deemed to have been amended to the extent necessary to resolve any such conflict and, notwithstanding anything to the contrary herein contained, any such resolution of the Trustees shall not require the prior approval of Unitholders.

ARTICLE 8
UNITS AND SPECIAL VOTING UNITS

8.1 Units and Special Voting Units

(a) The beneficial interests in the Trust shall be divided into interests of nine classes, described and designated as "Class A Units", "Class C Units", "Class D Units", "Class E Units" and "Class F Units", "Class G Units", "Class I Units", "Class U Units", and "Special Voting Units" respectively, which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein. Each Unit and Special Voting Unit shall vest indefeasibly in the holder thereof and the interest of each Unitholder shall be determined by the number of Units and Special Voting Units registered in the name of the Unitholder.

(b) The number of Units of each class that the Trust may issue shall be unlimited. The Trust may also issue an unlimited number of Special Voting Units. The issued and outstanding Units and Special Voting Units may be subdivided or consolidated from time to time by the Trustees without notice to or approval of the Unitholders, provided that a subdivision or consolidation will not affect the Proportionate Class A Interest, the Proportionate Class C Interest, Proportionate Class D Interest, Proportionate Class E Interest, Proportionate Class F Interest, Proportionate Class G Interest, Proportionate Class I Interest, or the Proportionate Class U Interest.

(c) The Class A Units, Class C Units, Class D Units, Class F Units and Class I Units shall be denominated in Canadian dollars, while the Class E Units, Class G Units and Class U Units shall be denominated in U.S. dollars.

(d) Each Unit entitles the holder to the same rights and obligations as a Unitholder and no Unitholder is entitled to any privilege, priority or preference in relation to any other Unitholder, subject to (i) the proportionate entitlement of each holder of Class A Units, Class C Units, Class D Units, Class E Units, Class F Units, Class G Units, Class I Units and Class U Units to participate in distributions made by the Trust, if any, and to receive proceeds on a termination of the Trust, based on the Proportionate Class A Interest, the Proportionate Class C Interest, Proportionate Class D Interest, Proportionate Class E Interest, Proportionate Class F Interest, Proportionate Class G Interest, Proportionate Class I Interest and Proportionate Class U Interest, respectively (subject in each case to adjustment to reflect the Unit Class Expenses allocable to each respective class and to achieve the intended result of ensuring that any changes in the value of the Canadian dollar relative to the value of the U.S. dollar since the Closing Date to the date of any applicable distribution do not affect the amounts distributable by the Trust to holders of U.S. Dollar Units) and (ii) a proportionate allocation of income or loss of the Trust in accordance with the terms of this Declaration of Trust.

(e) Each Unitholder is entitled to one vote per Unit held and, subject to Section 9.5, votes of Unitholders will be conducted with holders of Class A Units, Class C Units Class D Units, Class E Units, Class F Units, Class G Units, Class I Units, Class U Units and Special Voting Units voting together as a single class. Notwithstanding the foregoing, if the Board determines that the nature of the business to be transacted at a meeting affects Unitholders of one class of Units in a manner materially different from its effect on Unitholders of another class of Units, the Units of such affected class will be voted separately as a class (provided that the Special Voting Units shall vote with the Class C Units).

(f) Each Special Voting Unit will entitle the holder thereof to that number of votes at any meeting of Unitholders that is equal to the number of Class C Units that may be obtained upon the exchange of the Investment LP Class B Unit to which such Special Voting Unit is attached.

(g) Special Voting Units shall have no economic entitlement in the Trust or in the distributions or assets of the Trust but shall entitle the holder to one vote per Special Voting Unit at any meeting of the Unitholders. Special Voting Units may only be issued in connection with or in relation to Investment LP Class B Units for the purpose of providing voting rights with respect to the Trust to the holders of such securities.

(h) Upon the exchange or surrender of an Investment LP Class B Unit for a Class C Unit, the Special Voting Unit attached to such Investment LP Class B Unit will automatically be redeemed and cancelled for no consideration without any further action of the Trustees, and the former holder of such Special Voting Unit will cease to have any rights with respect thereto.

8.2 Consideration for Units and Special Voting Units

No Units shall be issued other than as fully paid and non-assessable. A Unit shall not be fully paid until the consideration therefor has been received in full by or on behalf of the Trust. The consideration for any Unit shall be paid in money or in property or in past services that are not less in value than the fair equivalent of the money that the Trust would have received if the Unit had been issued for money. In determining whether property or past services are the fair equivalent of consideration paid in money, the Trustees may take into account reasonable charges and expenses of organization and reorganization and payments for property and past services reasonably expected to benefit the Trust. Special Voting Units shall only be issued in connection with the issuance of Investment LP Class B Units.

8.3 No Pre-Emptive Rights

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

8.4 Fractional Units and Special Voting Units

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

8.5 Allotment and Issue

Subject to Sections 8.2, 8.7, and 8.9, the Trustees may allot and issue Units and Special Voting Units at such time and in such manner (including, in the case of Units, pursuant to any plan from time to time in effect relating to reinvestment by Unitholders of their distributions of the Trust in Units), and for such consideration and to such Person, Persons or class of Persons as the Trustees in their sole discretion shall determine, excepting only that Special Voting Units may only be issued in connection with the issuance of Investment LP Class B Units, for the purpose of providing voting rights with respect to the Trust to the holders of such securities, and will be evidenced only by the certificates or other evidence of ownership of such Investment LP Class B Units. In the event that Units or Special Voting Units are issued in whole or in part for consideration other than money, the resolution of the Trustees allotting and issuing such Units or Special Voting Units shall express the fair equivalent in money of the other consideration received. The price or value of the consideration for which Units may be issued will be determined by the Trustees in their sole discretion, generally in consultation with investment dealers or brokers who may act as underwriters or agents in connection with offerings of Units.

8.6 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.

8.7 Transferability

The Units are freely transferable and, except as stipulated in Sections 8.8 and 8.9, the Trustees shall not impose any restriction on the transfer of Units by any Unitholder except with the consent of such Unitholder. The Trustees shall use all reasonable efforts to obtain and maintain a listing for the Class A Units and Class U Units on one or more stock exchanges in Canada.

Special Voting Units shall not be transferable separately from the Investment LP Class B Units to which they are attached and will automatically be transferred upon the transfer of any such Investment LP Class B Units. Special Voting Units shall not be listed on any stock exchange.

8.8 Transfer of Units

(a) Subject to the provisions of this Article 8, the Units shall be for all purposes of the Trust and this Declaration of Trust, personal and moveable property, and the Units shall be fully transferable without charge as between Persons, but no transfer of Units shall be effective as against the Trustees or shall be in any way binding upon the Trustees until the transfer has been recorded on the Register maintained by the Trustees, the Trust or the Transfer Agent. No transfer of a Unit shall be recognized unless such transfer is of a whole Unit.

(b) Notwithstanding the foregoing, the Class C Units may only be transferred after the end of the Class C Hold Period.

(c) Subject to the provisions of Section 8.11, Units shall be transferable on the Register only by the holders of record thereof or their executors, administrators or other legal representatives or by their agents or attorneys duly authorized in writing, and only upon delivery to the Trust or to the Transfer Agent of the certificate therefor, 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 and a new Unit Certificate for the Units shall be issued to the transferee and a new Unit Certificate for the balance of Units not transferred shall be issued to the transferor.

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

8.9 Non-Resident Ownership Constraint

The Trust must not be established or maintained primarily for the benefit of Non-Residents. Accordingly, at no time may Non-Residents be the beneficial owners of more than 49% of the Units (on a number of Units or fair market value basis) and the Board will inform the Transfer Agent of this restriction. The Board may require a registered Unitholder to provide the Trustees with a declaration as to the jurisdictions in which beneficial owners of the Units are resident. If the

Board becomes aware, as a result of acquiring such declarations as to beneficial ownership or as a result of any other investigations, that the beneficial owners of 49% of the Units then outstanding (on a number of Units or fair market value basis) are, or may be, Non-Residents or that such a situation is imminent, the Board shall inform the Transfer Agent and the Transfer Agent shall not accept a subscription for Units from or issue Units to a Person unless the Person provides a declaration that the Person is not a Non-Resident.

If, notwithstanding the foregoing, the Board determines that more than 49% of the Units (on a number of Units or fair market value basis) are held by Non-Residents, the Board may send a notice to Non-Resident holders of Units, chosen in inverse order to the order of acquisition or registration or in such manner as the Board may consider equitable and practicable, requiring them to sell their Units or a portion thereof within a specified period of not less than 60 days. If the Unitholders receiving such notice have not sold the specified number of Units or provided the Board with satisfactory evidence that they are not Non-Residents within such period, the Board may, on behalf of such Unitholders sell such Units and, in the interim, suspend the voting and distribution rights attached to such Units. Upon such sale the affected holders will cease to be holders of Units and their rights will be limited to receiving the net proceeds of sale, subject to the right to receive payment of any distribution declared by the Board which is unpaid and owing to such Unitholders. The Board will have no liability for the amount received provided that they act in good faith. The Trust may direct its transfer agent to assist the Board with respect to any of the foregoing.

For greater certainty, the Trust may sell Units in accordance with the terms hereof despite the fact that the Trust does not possess the Unit Certificate or Unit Certificates, if any, representing the Units at the time of the sale. Where, in accordance with this Section 8.9, Units are sold by the Trust without possession of the Unit Certificate or Unit Certificates, if any, representing the same and, after the sale, a Person establishes that it is a bona fide purchaser without notice of the Units from the Unitholder, then, subject to Applicable Laws:

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

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

The Trustees shall have the sole right and authority to make any determination required or contemplated under this Section 8.9. The Trustees shall make all determinations necessary for the administration of the provisions of this Section 8.9 and, without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a contravention of the Non-Resident ownership restriction has occurred or will occur, the Trustees shall make a determination with respect to the matter. Any such determination shall be conclusive, final and binding except to the extent modified by any subsequent determination by the Trustees. Notwithstanding the foregoing, the Trustees may determine not to take any of the actions described above if the Trustees have been advised by legal counsel that the failure to take any of such actions would not adversely affect the status of the Trust as a mutual fund trust for purposes of the Tax Act or, alternatively, may take such other action or actions as may be necessary to maintain the status of the Trust as a mutual fund trust for purposes of the Tax Act. Notwithstanding the foregoing, the Trustees may delegate, in whole or in part, their power to make a determination to any officer of the Trust.

8.10 Non-Certificated Inventory System

(a) The provisions of this Section 8.10 shall not in any way alter the nature of Units or the relationships of a Unitholder to the Trustees and of one Unitholder to another but are intended only to facilitate the recording of all transactions in respect of Units whether by the Trust, securities dealers, stock exchanges, transfer agents, registrars or other Persons.

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

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

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

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

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

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

8.11 <u>Redemption of Units</u>

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

(b)

(i) To exercise a Unitholder's right to require redemption under this Section 8.11, a duly completed and properly executed notice (the "**Redemption Notice**") requiring the Trust to redeem Units, in a form reasonably acceptable to the Trustees, together with written instructions as to the number of Units to be redeemed, shall be sent to the Transfer Agent with a copy to the Trust at the head office of the Trust. A Unitholder not otherwise holding a registered Unit Certificate that wishes to exercise the redemption right will be required to obtain a redemption notice form from the Unitholder's investment dealer who will be required to deliver the completed redemption notice form to the Trust, to the Transfer Agent and to CDS. No form or manner of completion or execution shall be sufficient unless the same is in all respects reasonably acceptable 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.

(ii) Upon receipt by the Transfer Agent and the Trust of the Redemption Notice, the Unitholder shall thereafter cease to have any rights with respect to the Units tendered for redemption (other than to receive the redemption payment therefor) including the right to receive any distributions thereon which are declared payable to the Unitholders of record on a date which is subsequent to the day of receipt by the Trust of such notice. Units shall be considered to be tendered for redemption on the date that the Trust has, to the satisfaction of the Board, received the Redemption Notice and further documents or evidence the Trust may reasonably require with respect to the identity, capacity or authority of the Person giving such notice. Subject to Applicable Laws, the Trust will redeem the Units specified in such Redemption Notice. Such redemption will be effective as of the date on which the Units are redeemed.

(c)

(i) The redemption price payable per Unit in respect of each class of Units (the "**Redemption Price**") shall be:

(A) where the Units are listed on a stock exchange or similar market, equal to the lesser of (x) 95% of the average market price of the Units during the 10-trading day period after the redemption date (the "**Unit Redemption Date**"); and (y) 100% of the closing market price of the Units on the Unit Redemption Date; and

(B) where the Units are not listed on a stock exchange or similar market, but a class of Units are listed on a stock exchange or similar market, equal to the lesser of (x) 95% of the average market price of such listed class of Units during the 10-trading day period after the Unit Redemption Date; and (y) 100% of the closing market price of such listed class of Units on the Unit Redemption Date on an as-converted basis; or

(C) where none of the Units are listed on a stock exchange or similar market, the fair market value of the Units, which will be determined by the Board in its sole discretion based on the applicable proportionate class interest of the Units being redeemed,

provided that in each case the Redemption Price shall be adjusted, as necessary, to reflect that the Class F Units and Class E Units, respectively, are subject to a lower

Agents' Fee than Class A Units, Class D Units, Class G Units and Class U Units, respectively, and that Class C Units and Class I Units are not subject to the Agents' Fee.

(ii) Subject to Sections 8.11(d) and 8.11(e), the Redemption Price per Unit multiplied by the number of Units tendered for redemption will be paid to a Unitholder by way of a cash payment no later than the last day of the calendar month following the calendar quarter in which the Redemption Date occurs by cheque, drawn on a Canadian chartered bank or a trust company in Canadian dollars in respect of the Canadian Dollar Units and U.S. dollars in the case of U.S. Dollar Units (converted from Canadian dollars using the applicable spot rate available to the Trust in respect of such Redemption Price). Payments made by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former Unitholder unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder in respect of the Units so redeemed.

(d) Section 8.11(c)(ii) shall not be applicable to Units tendered for redemption by a Unitholder, if:

(i) the total amount payable by the Trust pursuant to Section 8.11(c) in respect of such Units and all other Units tendered for redemption in the same calendar quarter (converted to Canadian dollars using the applicable spot rate in the case of U.S. Dollar Units) exceeds $100,000 (the "**Quarterly Limit**"); provided that the Trustees may, in their sole discretion, waive such limitation in respect of all Units tendered for redemption in any calendar quarter and, in the absence of such a waiver, Units tendered for redemption in any calendar quarter in which the total amount payable by the Trust pursuant to Section 8.11(c)(ii) exceeds the Quarterly Limit will be redeemed for cash pursuant to Section 8.11(c)(ii) and, subject to any applicable regulatory approvals, by a distribution *in specie* under Section 8.11(e), on a *pro rata* basis;

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

(iii) the redemption of the Units will result in the delisting of a class of Units from the principal stock exchange on which such class of Units are listed.

(e) To the extent that Section 8.11(c)(ii) is not applicable to all of the Units tendered for redemption by a Unitholder pursuant to Section 8.11(d) the balance of the

Redemption Price per Unit specified in Section 8.11(c) shall, subject to receipt of all necessary regulatory approvals (which the Trust shall use reasonable commercial efforts to obtain forthwith), be paid and satisfied by way of a distribution *in specie* to such Unitholder of Trust Property and/or Redemption Notes, as determined by the Board in its sole discretion. Upon such payment, together with any cash paid to the Unitholder in accordance with Section 8.11(c)(ii), the Trust shall be discharged from all liability to such former Unitholder and any party having a security interest in respect of the Units so redeemed. In the event of distributions of Redemption Notes, each Redemption Note so distributed to the redeeming holder of Units shall be in the principal amount of $100 or such other amount as may be determined by the Board in its sole discretion. No fractional Redemption Notes shall be distributed and where the number of Redemption Notes to be received upon redemption by a holder of Units would otherwise include a fraction, that number shall be rounded down to the next lowest whole number. The Trustees may deduct or withhold from all payments or other distributions payable to any Unitholder pursuant to this Article 8 all amounts required by law to be so withheld. Where the Trust makes a distribution *in specie* pursuant to this Section 8.11, the Trustees may, in their sole discretion, designate and treat as having been paid to the redeeming Unitholders any amount of the capital gains or income realized by the Trust on or in connection with the distribution to the Unitholder.

(f) All Units redeemed under this Section 8.11 shall be cancelled and such Units shall no longer be outstanding and shall not be reissued.

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

8.12 Certificate Fee

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

8.13 Form of Unit Certificate

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

8.14 Unit Certificates

(a) If issued, Unit Certificates are issuable only in fully registered form.

(b) The definitive form of the Unit Certificates shall:

(i) be in the English language or in the English language and the French language;

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

(iii) contain such distinguishing letters and numbers as the Trustees shall prescribe.

(c) 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.

(d) Each Unit Certificate shall be signed on behalf of the Trustees and, unless otherwise decided by the Trustees, signed or certified by the Transfer Agent of the Trust. The signature of the Trustees and the Transfer Agent required to appear on such certificate may be printed, lithographed or otherwise mechanically reproduced thereon and, in such event, certificates so signed are as valid as if they had been signed manually. If a Unit Certificate contains the printed or mechanically reproduced signature of an individual, then the Trust may issue the Unit Certificate even though such individual has ceased to be a Trustee or an authorized representative of the Transfer Agent and such Unit Certificate is valid as if such individual continued to be a Trustee or an authorized representative of the Transfer Agent at the date of its issue.

8.15 <u>Contents of Unit Certificates</u>

(a) Until otherwise determined by the Trustees, each Unit Certificate shall legibly set forth on the face thereof, *inter alia*, the following:

(i) the name of the Trust and the words "A trust governed under the laws of the Province of Ontario governed by a Declaration of Trust made the 28th day of October, 2021, as amended or 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 Unitholder;

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

(iv) that, subject to the terms of this Declaration of Trust, the Units represented thereby are transferable;

(v) "The Units represented by this certificate are issued upon the terms and subject to the conditions of the Declaration of Trust, which Declaration of Trust is binding upon all holders of Units and, by acceptance of this certificate, the holder assents to the terms and conditions of the Declaration of Trust. A copy of the Declaration of Trust, pursuant to which this certificate and the Units represented thereby are issued, may be obtained by a Unitholder on demand and without fee from the head office of the Trust" or words of like effect;

(vi) "For information as to personal liability of a Unitholder, see the reverse side of this certificate" or words of like effect; and

(vii) the legends and other information required by the Exchange (or such other stock exchange on which a class of Units are listed for trading) and under applicable Securities Law.

(b) Until otherwise determined by the Trustees, each such certificate shall legibly set forth on the reverse side thereof, *inter alia*, the following:

(i) "The Declaration of Trust provides that no Unitholder shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any Person in connection with the assets of the Trust or the obligations or the affairs of the Trust and all such Persons shall look solely to the assets of the Trust for satisfaction of claims of any nature arising out of or in connection therewith and the assets of the Trust only shall be subject to levy or execution", or words of like effect; and

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

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

8.16 Register of Unitholders

A register (the "**Register**") shall be kept by, or on behalf and under the direction of, the Trustees, which Register shall contain the names and addresses of the Unitholders, the respective numbers of Units and Special Voting Units held by them, the certificate numbers of certificates representing such Units and Special Voting Units, if applicable, and a record of all transfers and redemptions thereof. Only Unitholders whose Units 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 or Special Voting Units for all purposes, including payment of any distribution (in the case of Units), giving notice to Unitholders and determining the right to attend and vote at meetings of Unitholders.

8.17 Successors in Interest to Unitholders

Any Person purporting to become entitled to any Units or Special Voting Units as a consequence of the death, bankruptcy or incompetence of any Unitholder or otherwise by operation of law, shall be recorded in the Register as the holder of such Units or Special Voting Units, but until such record is made, the Unitholder of record shall continue to be and shall be deemed to be the holder of such Units or Special Voting Units for all purposes whether or not the Trust, the Trustees or the Transfer Agent or registrar of the Trust shall have actual or other notice of such death, bankruptcy, incompetence or other event and any Person becoming entitled to such Units or Special Voting Units shall be bound by every notice or other document in respect of the Units and Special Voting Units, as applicable, which shall have been duly given to the Person from whom such Person derives title to such Units or Special Voting Units. Once such record is made, the Trustees shall deal with the new holder of such Units or Special Voting Units as Unitholder from thereon and shall have no liability to any other Person purporting to have been entitled to the Units or Special Voting Units prior to the making of such record.

8.18 <u>Units or Special Voting Units Held Jointly or in Fiduciary Capacity</u>

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

8.19 <u>Performance of Trusts</u>

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

8.20 <u>Lost Unit Certificates</u>

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

8.21 Death of Unitholders

The death of a Unitholder during the continuance of the Trust shall not terminate the Trust or give the personal representatives or the heirs of the estate of the deceased Unitholder a right to an accounting or to take any action in the courts or otherwise against other Unitholders or the Trustees, officers of the Trust or the Trust Property, but shall only entitle the personal representatives or the heirs of the estate of the deceased Unitholder to succeed to all rights of the deceased Unitholder under this Declaration of Trust.

8.22 Unclaimed Payments

In the event that the Trustees hold any amounts to be paid to Unitholders under Article 12 or otherwise because such amounts are unclaimed or cannot be paid for any reason, neither the Trustees nor any distribution disbursing agent shall be under any obligation to invest or reinvest the same and shall only be obligated to hold the same in a current or other non-interest bearing account with a chartered bank or trust company, pending payment to the Person or Persons entitled thereto. The Trustees shall, as and when required by law, and may at any time prior to such required time, pay all or part of such amounts so held to a court in the province where the Trust has its principal office or to the Public Guardian and Trustee (or other similar government official or agency) in the province where the Trust has its principal office whose receipt shall be a good and sufficient discharge of the obligations of the Trustees.

8.23 Repurchase of Units

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

8.24 Cancellation of the Initial Unit

Notwithstanding anything to the contrary and the generality of Section 8.23, the Trust may re-purchase or otherwise acquire the Initial Unit from the holder of the Initial Unit at any time, and the holder of the Initial Unit will at such time sell or otherwise provide the Initial Unit to the Trust, for a purchase price equal to the subscription price therefor and, upon the completion of such purchase or acquisition, the Initial Unit shall be cancelled and shall no longer be outstanding for any purpose of this Declaration of Trust.

8.25 Take-Over Bids

(a) If within 120 days after the date of a Take-Over Bid (which, for purposes of this Section 8.25, includes an issuer bid made by the Trust) the bid is accepted by the holders of not less than 90% of the Units, calculated on a fully diluted basis, other than Units held at the date of the Take-Over Bid by or on behalf of the Offeror or an affiliate or associate of the Offeror, the Offeror is entitled, on complying with this Section 8.25, to acquire the Units held by Dissenting Offerees.

(b) An Offeror may acquire Units held by a Dissenting Offeree by sending by registered mail within 60 days after the date of termination of the Take-Over Bid and in any event within 180 days after the date of the Take-Over Bid, an Offeror's notice to each Dissenting Offeree stating that:

(i) the Offerees holding more than 90% of the Units, calculated on a fully diluted basis, accepted the Take-Over Bid, other than Units held at the date of the takeover bid by or on behalf of the Offeror or an affiliate or associate of the Offeror;

(ii) the Offeror is bound to take up and pay for or has taken up and paid for the Units of the Offerees who accepted the Take-Over Bid;

(iii) a Dissenting Offeree is required to elect:

(A) to transfer his, her or its Units to the Offeror on the terms on which the Offeror acquired the Units of the Offerees who accepted the takeover bid, or

(B) to demand payment of the fair value of his, her or its Units in accordance with Sections 8.25(h) to 8.25(q) by notifying the Offeror within 20 days after he, she or it receives the Offeror's notice;

(iv) a Dissenting Offeree who does not notify the Offeror in accordance with Section 8.25(b)(iii)(B) is deemed to have elected to transfer his, her or its Units to the Offeror on the same terms that the Offeror acquired the Units from the Offerees who accepted the Take-Over Bid; and

(v) a Dissenting Offeree must send his, her or its Units to which the Take-Over Bid relates to the Trust within 20 days after he, she or it receives the Offeror's notice.

(c) Concurrently with sending the Offeror's notice under Section 8.25(b), the Offeror shall send to the Trust a notice of adverse claim disclosing the name and address of the Offeror and the name of the Dissenting Offeree with respect to each Unit held by a Dissenting Offeree.

(d) A Dissenting Offeree to whom an Offeror's notice is sent under Section 8.25(b) shall, within 20 days after he, she or it receives that notice, send his, her or its Unit Certificates to the Trust.

(e) Within 20 days after the Offeror sends an Offeror's notice under Section 8.25(b), the Offeror shall pay or transfer to the Trust the amount of money or other consideration that the Offeror would have had to pay or transfer to a Dissenting

Offeree if the Dissenting Offeree had elected to accept the Take-Over Bid under Section 8.25(b)(iii)(A).

(f) The Trust is deemed to hold in trust for the Dissenting Offeree the money or other consideration it receives under Section 8.25(e) and the Trust shall deposit the money in a separate account in a bank or other body corporate any deposits of which are insured by the Canada Deposit Insurance Corporation or guaranteed by the Québec Deposit Insurance Board, and shall place the other consideration in the custody of a bank or such other body corporate.

(g) Within 30 days after the Offeror sends an Offeror's notice under Section 8.25(b), the Trust shall:

(i) issue to the Offeror a Unit Certificate in respect of the Units that were held by Dissenting Offerees;

(ii) give to each Dissenting Offeree who elects to accept the Take-Over Bid terms under Section 8.25(b)(iii)(A) and who sends his, her or its Unit Certificates as required under Section 8.25(d), the money or other consideration to which he, she or it is entitled, disregarding fractional Units, if any, which may be paid for in money; and

(iii) send to each Dissenting Offeree who has not sent his, her or its Unit Certificates as required under Section 8.25(d) a notice stating that:

(A) his, her or its Units have been cancelled,

(B) the Trust or some designated Person holds in trust for him, her or it the money or other consideration to which he, she or it is entitled as payment for or in exchange for his, her or its Units, and

(C) the Trust will, subject to Sections 8.25(h) to 8.25(q), send that money or other consideration to him, her or it forthwith after receiving his, her or its Units.

(h) If a Dissenting Offeree has elected to demand payment of the fair value of his, her or its Units under Section 8.25(b)(iii)(B), the Offeror may, within 20 days after it has paid the money or transferred the other consideration under Section 8.25(e), apply to a court to fix the fair value of the Units of that Dissenting Offeree.

(i) If an Offeror fails to apply to a court under Section 8.25(h), a Dissenting Offeree may apply to a court for the same purpose within a further period of 20 days.

(j) Where no application is made to a court under Section 8.25(i) within the period set out in that subsection, a Dissenting Offeree is deemed to have elected to transfer his, her or its Units to the Offeror on the same terms that the Offeror acquired the Units from the Offerees who accepted the Take-Over Bid.

(k) An application under Sections 8.25(h) or 8.25(i) shall be made to a court having jurisdiction in the place where the Trust has its registered office.

(l) A Dissenting Offeree is not required to give security for costs in an application made under Sections 8.25(h) or 8.25(i).

(m) On an application under Sections 8.25(h) or 8.25(i):

(i) all Dissenting Offerees referred to in Section 8.25(b)(iii)(B) whose Units have not been acquired by the Offeror shall be joined as parties and shall be bound by the decision of the court; and

(ii) the Offeror shall notify each affected Dissenting Offeree of the date, place and consequences of the application and of his, her or its right to appear and be heard in person or by counsel.

(n) On an application to a court under Sections 8.25(h) or 8.25(i), the court may determine whether any other Person is a Dissenting Offeree who should be joined as a party, and the court shall then fix a fair value for the Units of all Dissenting Offerees.

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

(p) The final order of the court shall be made against the Offeror in favour of each Dissenting Offeree and for the amount for his, her or its Units as fixed by the court.

(q) In connection with proceedings under this Section 8.25, a court may make any order it thinks fit and, without limiting the generality of the foregoing, it may:

(i) fix the amount of money or other consideration that is required to be held in trust under Section 8.25(f);

(ii) order that money or other consideration be held in trust by a Person other than the Trust; and

(iii) allow a reasonable rate of interest on the amount payable to each Dissenting Offeree from the date he, she or it sends or delivers his, her or its Unit Certificates under Section 8.25(d) until the date of payment.

8.26 Coattail Provisions

If prior to the end of the Term a “formal take-over bid”, as defined in the Securities Act, is made for Units of a class other than the Class A Units or Class U Units (a “**Class Offer**”) and the Class Offer does not include a concurrent identical take-over bid for the Class A Units and Class U Units (the “**Coattail Units**”), including in terms of relative price (on an as-converted basis) for the Coattail Units, then the Trust shall by press release provide written notice to the holders of the Coattail Units that the Class Offer has been made and of the right of such holders to convert all or a part of their Coattail Units into the class of Units that are subject to the Class Offer (the "**Bid Units**") and tender such Bid Units to the Class Offer. Such Coattail Units may, in such circumstances, be converted at any time prior to the Business Day that is five Business Days prior to the expiry of the Class Offer (the "**Conversion End Date**") by delivering a notice to the Trust and surrendering such Units by 5:00 p.m. on the Conversion End Date. Any such Coattail Units so delivered shall be converted into Bid Units and tendered on behalf of the Unitholder to the Class Offer. In connection with such conversion and tender by any such Unitholder, the Unitholder shall complete and execute any and all such documentation as the Trust shall require or consider necessary to give effect to this provision. For each Coattail Unit so converted, a holder will receive a number of Bid Units equal to the Coattail Exchange Rate as of the Conversion End Date, provided that, to the extent that such Bid Units are not acquired pursuant to the Class Offer, such Bid Units shall be reconverted into that number of Coattail Units that they were prior to the conversion. Fractional Bid Units will not be issued and the number of Bid Units issuable under this provision to a Unitholder will be rounded down to the nearest whole Bid Unit.

8.27 Conversion

Holders of Convertible Units, other than Class A Units, Class U Units, Class E Units and Class G Units, may convert their Convertible Units into Class A Units in accordance with this Section 8.27. Holders of Class A Units may convert their Class A Units into Class D Units in accordance with this Section 8.27. Holders of Class U Units may convert their Class U Units into Class G Units in accordance with this Section 8.27. Holders of Class E Units and Class G Units may convert such Units into Class U Units in accordance with this Section 8.27. Convertible Units may be converted at any time by delivering a notice and surrendering such Convertible Units to the Trust, provided that the Class C Units may only be converted after the end of the Class C Hold Period. For each Class A Unit so converted, a holder will receive that number of Class D Units equal to the Class A Unit Exchange Rate. For each Class U Unit so converted, a holder will receive that number of Class G Units equal to the Class U Unit Exchange Rate. For each Class C Unit so converted, a holder will receive that number of Class A Units equal to the Class C Unit Exchange Rate. For each Class D Unit so converted, a holder will receive that number of Class A Units equal to the Class D Unit Exchange Rate. For each Class E Unit so converted, a holder will receive that number of Class U Units equal to the Class E Unit Exchange Rate. For each Class F Unit so converted, a holder will receive that number of Class A Units equal to the Class F Unit Exchange Rate. For each Class G Unit so converted, a holder will receive that number of Class U Units equal to the Class G Unit Exchange Rate. For each Class I Unit so converted, a holder will receive that number of Class A Units equal to the Class I Unit Exchange Rate. No fractions of Class A Units, Class U Units, Class D Units or Class G Units, as applicable, will be issued upon conversion of Convertible Units. Any fractional amounts will be rounded down to the nearest whole number of Class A Units, Class U Units, Class D Units or Class G Units, as applicable. Notwithstanding the foregoing, the conversion ratios described above may be adjusted from time to time as may be necessary to ensure that a conversion does not result in a change to the net asset value attributable to the converting Unitholder (other than as a consequence of the rounding referred to above).

8.28 Contractual Right of Rescission

Original Canadian purchasers of Convertible Units ("**Original Purchasers**") will have a contractual right of rescission against the Trust following the issuance of the Class A Units, Class

U Units, Class D Units or Class G Units, as applicable, to such Original Purchasers upon the conversion of the Convertible Units. The contractual right of rescission will entitle such Original Purchasers to receive the amount paid for the applicable Convertible Unit upon surrender of the Class A Unit, Class U Unit, Class D Unit or Class G Unit issued upon the conversion of the applicable Convertible Units, in the event the Prospectus or any amendment thereto contains a misrepresentation (within the meaning of the Securities Act), provided that: (i) the conversion takes place within 180 days of the date of the purchase under the Prospectus of the applicable Convertible Unit; and (ii) the right of rescission is exercised within 180 days of the date of the purchase under the Prospectus of the applicable Convertible Units. This contractual right of rescission shall be subject to the defences, limitations and other provisions described under part XXIII of the Securities Act, and is in addition to any other right or remedy available to Original Purchasers under section 130 of the Securities Act or otherwise at law. Original Purchasers are further advised that in certain provinces the statutory right of action for damages in connection with a prospectus misrepresentation is limited to the amount paid for the applicable convertible security that was purchased under a prospectus.

ARTICLE 9
MEETINGS OF UNITHOLDERS

9.1 Meetings of Unitholders

Annual meetings of Unitholders are not required. The Board shall have power at any time to call special meetings of the Unitholders at such time and place in Canada and for any purpose as the Board may determine. Unitholders holding in the aggregate not less than 5% of the Units and Special Voting Units then outstanding may requisition the Board in writing to call a special meeting of the Unitholders for the purposes stated in the requisition. A meeting of holders of a class of Units may be called by the Board if the nature of the business to be transacted at the meeting is only relevant to the holders of such class of Units. A meeting of holders of a class of Units shall be called by the Board upon written request of the Unitholders of the class holding in the aggregate not less than 5% of the Units of the class then outstanding, which requisition must specify the purpose or purposes for which such meeting is to be called. The requisition shall state in reasonable detail the business proposed to be transacted at the meeting and shall be sent to each of the Trustees at the principal office of the Trust. Unitholders shall have the right to obtain a list of Unitholders to the same extent and upon the same conditions as those which apply to shareholders of a corporation governed by the CBCA. Upon receiving the requisition, the Trustees shall call a meeting of Unitholders to transact the business referred to in the requisition, unless:

(a) a record date for a Meeting of the Unitholders has been fixed and notice thereof has been given to each stock exchange in Canada on which the Units are listed for trading;

(b) the Trustees have called a Meeting of the Unitholders and have given notice thereof pursuant to Section 9.2; or

(c) in connection with the business as stated in the requisition:

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

(ii) the Trust, at the Unitholder’s request, included a matter covered by a requisition in an information circular relating to a meeting of Unitholders held within two years preceding the receipt of such request, and the Unitholder failed to present the matter, in person or by proxy, at the meeting;

(iii) substantially the same matter covered by the requisition was submitted to Unitholders in an information circular (including a dissident’s information circular) relating to a meeting of Unitholders held within two years preceding the receipt of the Unitholder’s request and the matter covered by the requisition was defeated; or

(iv) the rights conferred by this Section 9.1 are being abused to secure publicity.

Subject to the foregoing, if the Trustees do not within 21 days after receiving the requisition call a meeting, any Unitholder who signed the requisition may call the meeting in accordance with the provisions of Section 9.2 and Section 9.8 and the Trustees’ Regulations, *mutatis mutandis*. The phrase “**Meeting of the Unitholders**” wherever it appears in this Declaration of Trust shall mean and any meeting of Unitholders.

9.2 Notice of Meeting of Unitholders

Notice of all meetings of the Unitholders shall be mailed or delivered by the Trustees to each Unitholder and to the Auditors not less than 21 days nor more than 60 days or within such other number of days as required by law or the relevant stock exchange before the meeting. Such notice shall specify the time when, and the place where, such meeting is to be held and shall state briefly the general nature of the business to be transacted at such meeting, and shall otherwise include such information as would be provided to shareholders of a corporation governed by the CBCA in connection with a meeting of shareholders. Notice of any Meeting of the Unitholders shall state the purposes of the meeting. Any adjourned meeting, other than a meeting adjourned for lack of a quorum under Section 9.4, may be held as adjourned without further notice. Notwithstanding the foregoing, a meeting of Unitholders may be held at any time without notice if all the Unitholders are present or represented thereat or those not so present or represented have waived notice. Any Unitholder (or a duly appointed proxy of a Unitholder) may waive any notice required to be given under the provisions of this Section 9.2, and such waiver, whether given before or after the meeting, shall cure any default in the giving of such notice. Attendance at a meeting of Unitholders shall constitute a waiver of notice unless the Unitholder or other Person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not properly called.

9.3 Chairperson

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

9.4 Quorum

A quorum for any Meeting of the Unitholders, or any class of Unitholders shall be individuals present in person or represented by proxy, not being less than two in number and such Persons holding or representing by proxy in aggregate not less than 10% of the total number of outstanding Units and Special Voting Units or any class of Units, as the case may be, provided that if the Trust has only one Unitholder, the Unitholder present in person or by proxy constitutes a meeting and a quorum for such meeting. If a quorum is present at the opening of a meeting, the Unitholders may proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting. The chairperson of any meeting at which a quorum of Unitholders is present may, with the consent of the majority of the Unitholders present in person or by proxy, adjourn any such meeting and no notice of any such adjournment need be given. In the event of such quorum not being present at the appointed place on the date for which the meeting is called within 30 minutes after the time fixed for the holding of such meeting, the meeting, if called by request of Unitholders, shall be terminated and, if otherwise called, shall stand adjourned to such day being not less than 10 days later and to such place and time as may be 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.

9.5 Voting

(a) Holders of Units and Special Voting Units may attend and vote at all meetings of the Unitholders either in person or by proxy. Each Unit shall entitle the holder of record thereof to one vote at all meetings of the Unitholders. Each Special Voting Unit will entitle the holder thereof to that number of votes at any meeting of Unitholders that is equal to the number of Class C Units that may be obtained upon the exchange of the Investment LP Class B Unit to which such Special Voting Unit is attached. Votes of Unitholders will be conducted with holders of Class A Units, Class C Units, Class D Units, Class E Units, Class F Units, Class G Units, Class I Units, Class U Units and Special Voting Units voting together as a single class. Notwithstanding the foregoing, if the Board determines that the nature of the business to be transacted at a meeting affects Unitholders of one class of Units in a manner materially different from its effect on Unitholders of another class of Units, the Units of such affected class will be voted separately as a class.

(b) Any action to be taken by the Unitholders shall, except as otherwise required by this Declaration of Trust or by law, be authorized when approved by a majority of the votes cast at a Meeting of the Unitholders. The chairperson of any such meeting shall not have a second or casting vote. Every question submitted to a meeting, other than a Special Resolution, shall, unless a poll vote is demanded, be decided by a show of hands.

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

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

9.6 Approval by Ordinary Resolution

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

(a) matters relating to the administration of the Trust for which the approval of the Unitholders is required by applicable securities laws, regulations, rules or policies or the rules or policies of any applicable stock exchange in effect from time to time, and such policies, laws or regulations do not require approval by Special Resolution;

(b) subject to the requirements for a Special Resolution, any matter or thing stated in the Declaration of Trust to be required to be consented to or approved by the Unitholders; and

(c) any matter which the Board considers appropriate to present to the Unitholders for their confirmation or approval.

9.7 Approval by Special Resolution

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

(a) matters relating to the administration of the Trust for which the approval of the Unitholders is required by Special Resolution by applicable securities laws, regulations, rules or policies or the rules or policies of any applicable stock exchange in effect from time to time;

(b) changes to any of the Investment Restrictions and the Operating Policy contained in Section 7.2(e);

(c) a reduction in the amount payable on any outstanding Units upon termination of the Trust;

(d) an increase in the liability of any Unitholders;

(e) any extension of the Term of the Trust (other than pursuant to the exercise of the two one-year extensions at the discretion of the Board);

(f) any change to the Manager; and

(g) the alteration or elimination of any voting rights pertaining to any outstanding Units,

but notwithstanding the foregoing, any amendment that directly or indirectly adds, removes or changes any of the rights, privileges, restrictions or conditions in respect of the Special Voting Units shall not occur without the approval by Ordinary Resolution of (i) holders of Special Voting Units and (ii) holders of Units (excluding Special Voting Units).

Furthermore, notwithstanding the above or any other provision herein, no confirmation, consent or approval shall be sought or have any effect and no Unitholders shall be permitted to effect, confirm, consent to or approve, in any manner whatsoever, where the same increases the obligations of or reduces the compensation payable to or protection provided to the Board, except with the prior written consent of the Board.

9.8 Related Party Transactions

In the event of any proposed transaction with a Related Party of the Trust, the Trust shall comply with the provisions of MI 61-101, subject to any regulatory relief received by the Trust. In the event that the Trust enters into a transaction that, pursuant to MI 61-101, requires approval from each class of Units, in each case voting separately as a class, the Trust intends to apply to applicable securities regulatory authorities for discretionary relief from such obligation given that (i) Section 9.5 provides that Unitholders will vote as a single class unless the nature of the business to be transacted at the meeting of Unitholders affects holders of one class of Units in a manner materially different from its effect on holders of another class of Units, (ii) the relative returns of any proposed transaction to each class of Units are fixed pursuant to the formula set out herein, and (iii) providing a class vote could grant disproportionate power to a potentially small number of Unitholders.

9.9 Record Dates

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

9.10 Proxies

(a) Whenever the vote or consent of Unitholders is required or permitted under this Declaration of Trust, such vote or consent may be given either directly by the Unitholder or by a proxy in such form as the Trustees may prescribe from time to time or, in the case of a Unitholder who is a body corporate or association, by an individual authorized by the board of directors or governing body of the body corporate or association to represent it at a Meeting of the Unitholders. A proxy need not be a Unitholder. The Trustees may solicit such proxies from the Unitholders or any of them in any matter requiring or permitting the Unitholders' vote, approval or consent.

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

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

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

9.11 Personal Representatives

If a Unitholder is deceased, his or her personal representative, upon filing with the secretary of the meeting such proof of his, her or its appointment as the secretary considers sufficient, shall be entitled to exercise the same voting rights at any meeting of Unitholders as the Unitholder would have been entitled to exercise if he or she were living and for the purpose of the meeting shall be considered to be a Unitholder. Subject to the provisions of the will of a deceased Unitholder, if there is more than one personal representative, the provisions of Section 8.18 relating to joint holders shall apply. When any Unit is held jointly by several Persons, any one of them may vote at any meeting in person or by proxy in respect of such Unit, but if more than one of them shall be present at such meeting in person or by proxy, and such joint owners or their proxies so present disagree as to any vote to be cast, such vote purporting to be executed by or on behalf of a Unitholder shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger.

9.12 Attendance by Others

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

9.13 Conduct of Meetings

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

9.14 Binding Effect of Resolutions

Every resolution passed at a meeting in accordance with the provisions of this Article 9 shall be binding upon all Unitholders, whether present at or absent from the meeting. Subject to Sections 9.6 and 9.7, no action taken by Unitholders at any meeting of Unitholders shall in any way bind the Trust or the Trustees without approval of the Trustees.

9.15 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 written resolution in lieu thereof) in accordance with this Article 9.

9.16 Voting on Special Resolutions

Votes on a Special Resolution shall always be given on a poll and no demand for a poll on a Special Resolution shall be necessary.

9.17 Meaning of "Outstanding"

Whether issued electronically through the NCI or in certificated form, every Unit and Special Voting Unit issued, certified and delivered hereunder, as applicable, shall be deemed to be outstanding until it shall be cancelled or redeemed or delivered to the Trustees or Transfer Agent for cancellation or redemption 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 and Special Voting Units outstanding; and

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

(i) for the purpose of determining whether the Trustees shall be protected in relying on any such vote, consent, requisition or other instrument or action only the Units and Special Voting Units which the Trustees know are so owned shall be so disregarded; and

(ii) Units and Special Voting Units so owned which have been pledged in good faith other than to the Trust or an affiliate thereof shall not be so disregarded if the pledgee shall establish to the satisfaction of the Trustees the pledgee's right to vote such Units and Special Voting Units in his, her or its discretion free from the control of the Trust or any affiliate thereof, and

(iii) for the purposes of Section 9.17(b), any Trustee, any officer of the Trust or the Transfer Agent will provide a certificate that will state the number of Units or Special Voting Units and the certificate numbers of certificates, if certificates are issued, held by the Trust or any affiliate thereof. The Trustees will be entitled to rely on such certificate in order to disregard the votes of any of the parties mentioned above.

9.18 Meetings by Telephone, Electronic or Other Communications Facility

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

ARTICLE 10
MEETINGS OF THE TRUSTEES

10.1 Trustees May Act Without Meeting

The Trustees may act with or without a meeting. Any action of the Trustees or any committee of the Trustees may be taken at a meeting by vote, or without a meeting by written consent signed by all of the Trustees (a majority of whom must be signing such written consent from within Canada) or the members of the applicable committee, as the case may be.

10.2 Notice of Meeting

Meetings of the Trustees may be held from time to time upon the giving of notice by any Trustee. Regular meetings of the Trustees may be held without call or notice at a time and place fixed in accordance with the Trustees' Regulations. Notice of the time and place of any other meetings shall be mailed or otherwise verbally, by telephone or by other means of communication, given not less than 48 hours before the meeting but may be waived in writing by any Trustee either before or after such meeting. Notice of a meeting of Trustees need not specify the purpose of or the business to be transacted at the meeting. If a quorum of Trustees is present, the Trustees may, without notice, hold a meeting immediately following an annual meeting of Unitholders. The attendance of a Trustee at a meeting, in person or by other means permitted pursuant to Section 10.8, shall constitute a waiver of notice of such meeting except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

10.3 Place of Meeting

Meetings of the Trustees may be held at any place in Canada and may not be held outside Canada. A Trustee who attends a meeting of Trustees, in person or by other means permitted pursuant to Section 10.8, is deemed to have consented to the location of the meeting except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting has not been lawfully called or convened. A majority of Trustees participating in a meeting of Trustees must be present in person in Canada or participating from a location in Canada.

10.4 Chair

The chair of any meeting of the Trustees shall be the Trustee present at the meeting who holds the office of Chair of the Trustees or if such Person is not present, the Trustees present shall choose one of their number to be chairperson.

10.5 Quorum

A quorum for all meetings of the Trustees or any committee thereof shall be a majority of the Trustees then holding office or of the Trustees on such committee, provided that a majority of the Trustees comprising the quorum must be (a) Residents, and (b) present at the meeting or participating from a location in Canada. Notwithstanding any vacancy among the number of Trustees, a quorum of Trustees may exercise all of the powers of the Trustees.

10.6 Adjourned Meeting

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

10.7 <u>Voting at Meetings</u>

(a) Questions arising at any meeting of the Trustees or of a committee of Trustees shall, unless otherwise specified herein, be decided by a majority of the votes cast.

(b) Each of the following matters will also require the approval of a majority of the Independent Trustees:

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

(ii) a change to any agreement with a Related Party of the Trust or any renewal, extension or termination thereof or any increase in any fees (including any transaction fees) or distributions payable thereunder;

(iii) the entering into of, or the waiver, exercise or enforcement of any rights or remedies under, any agreement entered into by the Trust, or the making, directly or indirectly, of any co-investment, in each case with (A) any Trustee, (B) any entity directly or indirectly Controlled by any Trustee or in which any Trustee holds a significant interest, or (C) any entity for which any Trustee acts as a director or other similar capacity;

(iv) the refinancing, increase or renewal of any indebtedness owed by or to (A) any Trustee, (B) any entity directly or indirectly Controlled by any Trustee or in which any Trustee holds a significant interest, or (C) any entity for which any Trustee act as a director or other similar capacity; and

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

(c) In the case of an equality of votes at any meeting of Trustees or of a committee of Trustees, the chairperson of the meeting shall not have a second or casting vote in addition to his or her original vote, if any.

(d) 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.

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

10.8 Meeting by Telephone or Electronic Means

Any Trustee may participate in a meeting of the Trustees or any committee thereof by means of a conference telephone or other electronic communications equipment by means of which all Persons participating in the meeting can hear each other and a Trustee so participating shall be considered for the purposes of this Declaration of Trust to be present in person at that meeting, provided that the conference telephone or other communication facility is originated within Canada.

ARTICLE 11
COMMITTEES OF TRUSTEES

11.1 General

Except as prohibited by law, the Trustees may appoint from among their number a committee of Trustees and may delegate to such committee any of the powers of the Trustees, provided that (i) a majority of the Trustees appointed to any committee shall be Residents, except in the case of the Audit Committee, which requires that all Trustees appointed be Residents, and (ii) a majority of the Trustees appointed to any committee shall be Persons determined by the Trustees to be Independent Trustees, except for temporary periods where a sufficient number of Independent Trustees are not available to form the committee and then only until such time as a new Independent Trustee is appointed. The Trustees shall have the power to appoint, employ or contract with any Person for any matter relating to the Trust or its assets or affairs. For greater certainty, the Trustees may delegate to any Person (including any one or more officers of the Trust) the power to execute any document or enter into any agreement on behalf of the Trust or exercise any discretion or make any amendment in relation thereto. The Trustees may grant or delegate such authority to an advisor or a committee of Trustees as the Trustees may in their sole discretion deem necessary or desirable without regard to whether such authority is normally granted or delegated by trustees. The Trustees shall have the power to determine the term and compensation of an advisor or any other Person whom they may employ or with whom they may contract. The Trustees shall have the power to grant powers of attorney as required in connection with any financing or security relating thereto.

Without in any way limiting the generality of the foregoing, the Trustees shall appoint an audit committee (the "**Audit Committee**") to consist of at least three Trustees, (a) at least one of whom shall have accounting or related financial management expertise; (b) two of whom shall be free from any relationship that, in the opinion of the Board, would interfere with the exercise of his or her independent judgment as a member of the Audit Committee in accordance with National Instrument 52-110 – *Audit Committees*; and (c) all of whom shall meet any requirements imposed by Applicable Laws for the purpose of membership on such committee. The Audit Committee shall have the powers, rights and responsibilities as the Trustees may approve, all as set out in any written charter for such purpose approved by the Trustees.

11.2 Additional Committees

The Trustees may create such additional committees as they, in their discretion, determine to be necessary or desirable for the purposes of properly governing the affairs of the Trust; provided that the Trustees may not delegate to any committee any powers or authority in respect of which a board of directors of a corporation governed by the CBCA may not so delegate.

11.3 Procedure

Each committee shall have the power to appoint its chairperson who must be a Resident and delineate the duties and responsibilities of such chairperson. The rules for calling (including, for greater certainty, the giving of notice), location, holding, conducting, participating in, voting at and adjourning meetings of the committee shall be the same as those governing meetings of the Trustees, except as the Trustees may otherwise determine. Each member of a committee shall serve during the pleasure of the Trustees and, in any event, only so long as he or she shall be a Trustee. The Trustees may fill vacancies in a committee by appointment of another qualifying Trustee from among their members. Provided that a quorum is maintained, the committee may continue to exercise its powers notwithstanding any vacancy among its members.

ARTICLE 12
DISTRIBUTIONS

12.1 Distributions

The Trustees shall have full discretion respecting the timing and the amount of any distributions, provided that any distribution shall be made on a Distribution Payment Date on Units held by Unitholders as of the close of business on the record date for such distribution as determined by the Trustees from time to time. The Trustees shall declare any distribution to Unitholders payable on or prior to the Distribution Payment Date, provided that distributions made in respect of the final Distribution Period of the Taxation Year shall be made payable on December 31 of such year. For greater certainty, a Unitholder shall have the immediate legal right to enforce payment at the time a distribution is made payable, which in the case of the final Distribution Period shall be December 31 of such year. The Trustees may adopt a distribution policy pursuant to which distributions will be made by the Trust to Unitholders, and the Trustees may amend or revoke such distribution policy from time to time. The Trustees, if they so determine when income has been accrued but not collected may, on a temporary basis, transfer sufficient moneys from the capital to the income account of the Trust to permit distributions under this Section 12.1 to be effected.

Provided the Trust is not a SIFT Trust, in calculating the Trust's income for tax purposes for any Taxation Year, the Trust intends to deduct such amounts that the Trustees paid or declared payable to Unitholders in the Taxation Year as is necessary to reduce or eliminate the Trust's liability for non-refundable income tax under Part I of the Tax Act in the Taxation Year to the maximum extent possible. In furtherance thereof, and unless the Trustees otherwise determine, the amount required to be distributed to comply with the preceding sentence for a particular Taxation Year of the Trust shall be due and payable to Unitholders on December 31 of such year, such amount to be payable in cash unless the Trustees determine in their absolute discretion to pay such amount in Units. For greater certainty, it is hereby expressly declared that a Unitholder shall have the legal right to enforce payment of any amount made payable to the Unitholder in accordance with the preceding sentence on the date on which the amount is due and payable.

If and when declared by the Trustees, holders of Canadian Dollar Units will receive distributions in Canadian dollars while holders of U.S. Dollar Units will receive distributions in U.S. dollars. The amount of such distributions payable in respect of each Unit will differ and be allocated based on, initially, the proportionate interest of the Trust attributable to each class and determined, from time to time, as follows:

(a) the product of the Proportionate Class A Interest and the balance of the Distributable Cash Flow (the "**Distributable Cash Flow Balance**") shall be distributed to the holders of Class A Units, *pro rata* in accordance with their respective proportionate shares;

(b) the product of the Proportionate Class C Interest and the Distributable Cash Flow Balance, less the Investment LP Class B Unit Distribution Amount, shall be distributed to the holders of Class C Units, *pro rata* in accordance with their respective proportionate shares;

(c) the product of the Proportionate Class D Interest and the Distributable Cash Flow Balance shall be distributed to the holders of Class D Units, *pro rata* in accordance with their respective proportionate shares;

(d) the product of the Proportionate Class E Interest and the Distributable Cash Flow Balance shall be distributed to the holders of Class E Units, *pro rata* in accordance with their respective proportionate shares;

(e) the product of the Proportionate Class F Interest and the Distributable Cash Flow Balance shall be distributed to the holders of Class F Units, *pro rata* in accordance with their respective proportionate shares;

(f) the product of the Proportionate Class G Interest and the Distributable Cash Flow Balance shall be distributed to the holders of Class G Units, *pro rata* in accordance with their respective proportionate shares;

(g) the sum of (A) the Class I Asset Management Fee Reduction Amount in respect of such Distribution Period and (B) the product of the Proportionate Class I Interest and the Distributable Cash Flow Balance shall be distributed to the holders of Class I Units, *pro rata* in accordance with their respective proportionate shares; and

(h) the product of the Proportionate Class U Interest and the Distributable Cash Flow Balance shall be distributed to the holders of Class U Units, *pro rata* in accordance with their respective proportionate shares,

in each case adjusted:

(i) to reflect the Unit Class Expenses allocable to each respective class;

(j) as required to achieve the intended result of ensuring that any changes in the value of the Canadian dollar relative to the value of the U.S. dollar since the Closing Date to the date of the applicable distribution do not affect the amounts distributable by the Trust to holders of U.S. Dollar Units (including for greater certainty ensuring that the effect of such changes on the calculation of the amounts distributable to the Investment LPs by the Holding LPs on the Holding LPs Units is attributed in its entirety to the Canadian Dollar Units); and

(k) to reflect the impact, if any, of the Canadian Dollar Unit Distribution Hedge and any other currency hedges entered into by the Trust for the benefit of one or more particular classes of Units.

12.2 Allocation

Income of the Trust for a Taxation Year and net taxable capital gains of the Trust for the purposes of the Tax Act will be allocated to the Unitholders in the same proportions as the distributions received by Unitholders.

12.3 Payment of Distributions

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

The Trustees shall deduct or withhold from distributions payable to any Unitholder all amounts required by law to be withheld from such distributions and the Trust shall remit such taxes to the appropriate governmental authority within the times prescribed by law. Unitholders who are Non-Residents will be required to pay all Canadian withholding taxes payable in respect of any distributions by the Trust.

If the Trustees determine that the Trust does not have cash in an amount sufficient to make payment of the full amount of any distribution, the payment may include or consist entirely of the issuance of additional Units, or fractions of Units, having a value 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. Such additional Units will be issued based on the proportionate interest of each class and with respect to such class, *pro rata* in proportion to the number of Units held as of record by such Unitholder on such date. Immediately after a *pro rata* distribution of such Units to all Unitholders in satisfaction of any non-cash distribution, the number of outstanding Units will be consolidated so that each Unitholder will hold, after the consolidation, the same number of Units as the Unitholder held before the non-cash distribution. Each Unit Certificate representing a number of Units prior to the non-cash distribution is deemed to represent the same number of Units after the non-cash distribution and the consolidation. Such additional Units will be issued pursuant to applicable exemptions under applicable Securities Laws, discretionary exemptions granted by applicable securities regulatory authorities or a prospectus or similar filing. The value of each Unit that is issued pursuant to this Section 12.3 will be the average market price of the Units during the 10-trading day period preceding the trading day immediately prior to the applicable record date in respect of the distribution.

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

For clarity, notwithstanding anything else contained in this Declaration of Trust, all distributions declared by the Trust shall be at the discretion of the Trustees.

12.4 Income Tax Matters

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

12.5 Designations

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

12.6 Definitions

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

12.7 Allocation on Redemption

In connection with a redemption of Units, the Trustees may designate for the purposes of the Tax Act capital gains realized by the Trust as a result of the redemption of Units (including any income or capital gains realized by the Trust on an in specie redemption of Units) as being paid to the redeeming Unitholders. In addition, on the redemption of Units, the Trust may in its sole discretion, designate payable to redeeming Unitholders, the Unitholder's proportionate share at the time of the redemption of any capital gains realized by the Trust in the Taxation Year in which the redemption occurred. Any such allocations and designations will reduce the redemption price otherwise payable to the redeeming Unitholder of the Units redeemed. Notwithstanding the foregoing, no capital gains shall be designated to redeeming Unitholders to the extent that such designation would result in any deduction of the Trust being denied pursuant to subsection 132(5.3) of the Tax Act or any substantially similar provisions which may be subsequently enacted.

ARTICLE 13
FEES AND EXPENSES

13.1 Expenses

The Trust shall pay all expenses incurred in connection with the administration and management of the Trust and its investments out of the Trust Property, including:

(a) mailing and printing expenses for periodic reports to Unitholders and other Unitholder communications;

(b) any reasonable out-of-pocket expenses incurred by the Manager or its agents and paid to third parties in connection with their on-going obligations to the Trust which are required to be paid by the Trust in accordance with the Management Agreement;

(c) fees payable to auditors, legal advisors, appraisers and other professional advisers, as required, of the Trust; and

(d) regulatory filing fees, administrative expenses and costs incurred in connection with the public filing requirements of the Trust and investor relations, costs and expenses arising as a result of complying with all Applicable Laws, due diligence costs, regulations and policies, extraordinary expenses the Trust may incur and any expenditures incurred upon the termination of the Trust.

Such expenses listed above will also include expenses of any action, suit or other proceedings in which or in relation to which the Manager (and any of its officers, directors, employees, consultants or agents) or the Trustees or the executive officers of the Trust are entitled to an indemnity from the Trust.

In addition, because the Trust will indirectly own and operate physical real estate assets, the Trust will be indirectly responsible for the payment of ordinary course Operating Expenses relating to real estate, which expenses are customary for real estate related entities such as salaries and benefits for on-site employees, insurance, utilities, repairs and maintenance, advertising and general and administrative expenses. Certain of the Operating Expenses will be payable to the Manager in connection with its management of the Trust.

13.2 Payment of Real Property and Brokerage Commissions

The Trust and its Subsidiaries may pay Real Property and brokerage commissions at commercial rates in respect of the acquisition and disposition of any investment acquired or disposed of by them.

13.3 Asset Management, Development, Leasing and Financing Fees

The Trust and its Subsidiaries may pay asset management fees, development fees, leasing fees and financing fees in respect of any Real Property owned by them. For greater certainty and notwithstanding anything contained herein, the Trust may pay any amounts payable pursuant to the Material Agreements.

ARTICLE 14
AMENDMENTS TO THIS DECLARATION OF TRUST

14.1 Amendments by the Trustees

Notwithstanding Section 9.7, the Board may, without the approval of or notice to the Unitholders, but subject to the prior approval of the Exchange, make certain amendments to this Declaration of Trust, including amendments that:

(a) remove any conflicts or other inconsistencies which may exist between any terms of this Declaration of Trust and any provisions of any law or regulation applicable to or affecting the Trust;

(b) provide, in the opinion of the Board, additional protection for the Unitholders or obtain, preserve or clarify the provision of desirable tax treatment to Unitholders;

(c) in the opinion of the Board, based on the advice of its counsel or auditors (as the case may be), are necessary or desirable in the interests of the Unitholders as a result of changes in taxation laws or accounting rules or in their interpretation or administration;

(d) remove conflicts or inconsistencies between the disclosure in the Prospectus and this Declaration of Trust that, in the opinion of the Board, based on the advice of counsel, are necessary or desirable in order to make this Declaration of Trust consistent with the Prospectus;

(e) make any change or correction in this Declaration of Trust which is of a typographical nature or is required to cure or correct any ambiguity or defective or inconsistent provision, clerical omission, mistake or manifest error contained therein;

(f) which, in the opinion of the Board, based on the advice of its financial advisors, are required to achieve the intended result of ensuring that any changes in the value of the Canadian dollar relative to the value of the U.S. dollar since the Closing Date to the date of any applicable distribution do not affect the amounts distributable by the Trust to holders of U.S. Dollar Units;

(g) bring this Declaration of Trust into conformity with Applicable Laws, including the rules and policies of Canadian securities regulators or with current practice within the securities industry, provided that any such amendment does not adversely affect the rights, privileges or interests of Unitholders;

(h) maintain, or permit the Manager to take such steps as may be desirable or necessary to maintain, the status of the Trust as a "mutual fund trust" and a "unit trust" for the purposes of the Tax Act, maintain or avoid any other relevant status under the Tax Act or, respond to amendments to the Tax Act or to the interpretation thereof or, better comply with existing provisions of the Tax Act; or

(i) are required to undertake an internal reorganization involving the sale, lease, exchange or other transfer of the assets of the Trust as a result of which, based on the advice of counsel, the Trust has substantially the same interest, whether direct or indirect, in the Trust Property that it had prior to the reorganization and includes an amalgamation, arrangement or merger of the Trust and its affiliates with any entities provided that in the opinion of the Board, based on the advice of counsel, the rights of Unitholders are not prejudiced thereby.

Notwithstanding the foregoing, other than Sections 14.1(d), 14.1(e) and 14.1(h), no such amendment shall be effective until approved by a Special Resolution, if such an amendment to the Declaration of Trust also requires approval by a Special Resolution pursuant to Section 9.7.

14.2 Amendment by Trustees

Notwithstanding Sections 9.7 and 14.1, prior to the Closing, the Trustees may make any amendment to this Declaration of Trust including this Section 14.2.

14.3 Internal Restructuring

Notwithstanding anything to the contrary herein contained, if at any time the Trustees so resolve to implement an internal reorganization of the assets of the Trust and/or any of the Trust's subsidiaries (including forming additional trusts or limited partnerships to be subsidiaries of the Trust), any such resolution or reorganization shall not require the prior approval of Unitholders provided that such reorganization is not prejudicial to the Unitholders.

14.4 No Termination

No amendment to or amendment and restatement of this Declaration of Trust, whether pursuant to this Article 14 or otherwise, shall be construed as a termination of the Trust and the settlement or establishment of a new trust.

14.5 Trustees to Sign Amendment

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

ARTICLE 15
SUPPLEMENTAL INDENTURES

15.1 **Provision for Supplemental Indentures for Certain Purposes**

The Trustees may, without approval of or notice to the Unitholders, and subject to the provisions hereof and to the prior approval from the Exchange, 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 14.1 where the Trustees may do so without the consent, approval or ratification of the Unitholders or any other Person; and

(b) modifying or amending any provisions of this Declaration of Trust where the modification or amendment has been approved by Ordinary Resolution, Special Resolution or, if required, with the consent of the holders of all of the Units and Special Voting Units.

ARTICLE 16
TERMINATION OF THE TRUST

16.1 **Duration of the Trust**

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

The Term of the Trust is targeted to be three years, subject to earlier termination as described below. The Term may also be extended (including following the exercise of the two one-year extensions at the discretion of the Board) by Special Resolution of the Unitholders, subject to approval by the Board.

Notwithstanding the Term outlined above, the Trust may be wound down and terminated as soon as practicable following the direct or indirect disposition of all of the assets of the Trust.

16.2 **Termination**

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

16.3 **Effect of Termination**

Upon the termination of the Trust, the liabilities of the Trust shall be discharged with due speed and the net assets of the Trust shall be liquidated and the proceeds distributed in the following order:

(a) to pay any costs involved in the sale of the assets of the Trust and to pay all amounts required to discharge any mortgages or encumbrances registered against the assets, to pay all unpaid expenses which are required to be paid under this Declaration of Trust and all expenses incurred in the winding-up of the Trust, to pay all of the liabilities of the Trust and to establish reserves as the Board considers necessary for the contingent liabilities of the Trust; and

(b) to pay the balance (including the Class I Asset Management Fee Reduction Amount, which to the extent of funds available, is to be paid to the holders of Class I Units as set out below), to reflect the impact, if any, of the Canadian Dollar Unit Distribution Hedge, and to reflect the impact of any applicable remaining unallocated Unit Class Expenses, to Unitholders on a proportionate basis based upon the (i) Proportionate Class A Interest, (ii) Proportionate Class C Interest, (iii) Proportionate Class D Interest, (iv) Proportionate Class E Interest, (v) Proportionate Class F Interest, (vi) Proportionate Class G Interest, (vii) the sum of (A) the Class I Asset Management Fee Reduction Amount in respect of Asset Management Fees paid or owing less any distributions in respect of the Class I Asset Management Fee Reduction Amount already made and (B) the Proportionate Class I Interest, and (viii) Proportionate Class U Interest, respectively, and within each class pro rata based upon the number of Units held, subject to adjustments to achieve the intended result with respect to attributing the effect of changes in the value of the Canadian dollar relative to the value of the U.S. dollar as described above, to reflect the impact, if any, of the Canadian Dollar Unit Distribution Hedge and any other currency hedges entered into by the Trust for the benefit of one or more particular classes of Units, and to reflect the impact of any applicable remaining unallocated Unit Class Expenses.

Such distribution may be made in cash or in kind or partly in each, all as the Board in their sole discretion may determine. The exchange rate used to calculate the foregoing distributions to each holder of Canadian Dollar Units will be the effective exchange rate available to the Trust on the day prior to the distribution

16.4 <u>Procedure Upon Termination</u>

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 for cancellation and the date at which the Registers shall be closed.

16.5 <u>Powers of the Trustees Upon Termination</u>

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 and protecting the Trust Property pending such winding up as hereinafter provided and, for this purpose, the Trustees shall continue to be vested with and may exercise all or any of the powers conferred upon the Trustees under this Declaration of Trust.

16.6 Further Notice to Unitholders

In the event that less than all of the Unitholders have surrendered their Units for cancellation within six months after the time specified in the notice referred to in Section 16.4, the Trustees shall give further notice to the remaining Unitholders to surrender their Units for cancellation and if, within one year after the further notice, all the Units shall not have been surrendered for cancellation, such remaining Units shall be deemed to be cancelled without prejudice to the rights of the holders of such Units to receive their *pro rata* share of the remaining Trust Property, and the Trustees may either take appropriate steps, or appoint an agent to take appropriate steps, to contact such Unitholders (deducting all expenses thereby incurred from the amounts to which such Unitholders are entitled as aforesaid) or, in the discretion of the Trustees, may pay such amounts into court.

16.7 Responsibility of the Trustees after Sale and Conversion

The Trustees shall be under no obligation to invest the proceeds of any sale of investments or other assets or cash forming part of the Trust Property after the date referred to in Section 16.4 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 16.3.

ARTICLE 17
LIABILITIES OF TRUSTEES AND OTHERS

17.1 Liability and Indemnification of the Trustees

The Trustees shall at all times, including, for the purposes of this Article 17, the time after they have ceased to be a Trustee, be indemnified and saved harmless out of the Trust Property from and against all liabilities, damages, losses, claims, expenses, judgments and other amounts in respect of any civil, criminal or administrative claim, action or proceeding by reason of being or having been a Trustee or an officer of the Trust or such affiliated entity, and/or in respect of any and all taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon such parties as a result of the exercise of his or her powers or duties under this Declaration of Trust and also from and against all other liabilities, damages, losses, debts, claims, costs, charges, and expenses (including legal fees and disbursements on a full-indemnity (solicitor and client) basis) which they sustain or incur in or about or in relation to the affairs of the Trust (whether accrued, actual, contingent or otherwise), including claims, costs, charges or expenses arising out of or in connection with the presence, release, discharge or disposal of any hazardous substance or any adverse environmental conditions at, on, under or near any Real Property or any investigation, remediation or clean up action required to be undertaken in connection with any Real Property. Further, the Trustees shall not be liable to the Trust or to any Unitholder or Annuitant for any loss or damages relating to any matter regarding the Trust, including any loss or diminution in the value of the Trust or its assets. The foregoing provisions of this Section 17.1 in favour of any Trustee do not apply unless:

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

(b) the Trustee exercised that degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and

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

17.2 Indemnification of Trustees, Directors and Officers

Each Trustee, each former Trustee, each officer of the Trust and each former officer of the Trust (and the directors and officers of any affiliated entity) (each an "**Indemnified Party**") shall be entitled to be and shall be indemnified and reimbursed out of the Trust Property in respect of any and all taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon the Indemnified Party in consequence of its performance of its duties hereunder and in respect of any and all losses, claims, damages, liabilities, expenses, judgments and other amounts in respect of any civil, criminal or administrative action or proceeding to which the Indemnified Party is made a party by reason of being or having been a Trustee or officer of the Trust or, at the request of the Trust, a trustee, director or officer of any Subsidiary or affiliate thereof, provided that an Indemnified Party shall not be indemnified for amounts that result from his or her failure to act honestly and in good faith with a view to the best interests of the Trust, or as a result of his or her failure to exercise that degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, or, in the case of a civil criminal or administrative action or proceeding that is enforced by a monetary penalty, where such party did not have reasonable grounds for believing that his or her conduct was lawful. An Indemnified Party shall not be entitled to satisfy any right of indemnity or reimbursement granted herein, or otherwise existing under law, except out of the Trust Property, and no Unitholder or other Trustee or officer shall be personally liable to any Person with respect to any claim for such indemnity or reimbursement as aforesaid.

17.3 Contractual Obligations of the Trust

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

17.4 Liability of the Trustees

The Trustees shall not be liable to the Trust or to any Unitholder, Annuitant or any other Person for the acts, omissions, receipts, neglects or defaults of any Person, firm or corporation employed or engaged by it as permitted hereunder, or for joining in any receipt or act of conformity or for any loss, damage or expense caused to the Trust through the insufficiency or deficiency of any security in or upon which any of the monies of or belonging to the Trust shall be paid out or invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any Person, firm or corporation with whom or which any monies, securities or Trust Property shall be lodged or deposited, or for any loss occasioned by error in judgment or oversight on the part of the Trustees, or for any other loss, damage or misfortune which may happen in the execution by the Trustees of their duties hereunder, except to the extent the Trustees have not acted in accordance with Sections 17.1(a), 17.1(b) and 17.1(c).

17.5 Liability of Unitholders and Others

No Unitholder or Annuitant or any officer, employee or agent of the Trust shall be held to have any personal liability as such, and no resort shall be had to his, her or its private property (including any property consisting of or arising from a distribution of any kind or nature by the Trust) for satisfaction of any obligation or claim arising out of or in connection with any contract or obligation of the Trust or of the Trustees or any obligation which a Unitholder or Annuitant would otherwise have to indemnify a Trustee for any personal liability incurred by the Trustee as such, but rather the assets of the Trust only are intended to be liable and subject to levy or execution for such satisfaction. Any written instrument creating an obligation which is or includes the granting by the Trust of a lease, sublease or mortgage or which is, in the judgment of the Trustees, a material obligation, shall contain a provision to the effect that the obligation being created is not personally binding upon, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, the private property (including any property consisting of or arising from a distribution of any kind or nature by the Trust) of any of the Unitholders or Annuitant or officers, employees and agents of the Trust, but the Trust Property or a specific portion thereof only shall be bound. If the Trust acquires any Real Property investment subject to existing contractual obligations, the Trustees shall use their reasonable efforts to have any such obligations under material agreements (including mortgages), other than leases, modified so as to achieve the aforesaid disavowal of contractual liability. Further, the Trustees shall cause the operations of the Trust to be conducted in such a way and in such jurisdictions as to avoid, as far as reasonably possible, any material risk of liability on the Unitholders or Annuitant for claims against the Trust, and shall, to the extent which they determine to be possible and reasonable, including in the cost or premiums, to cause the Trust to carry insurance for the benefit of such Persons in such amounts as they consider adequate to cover any foreseeable non-contractual or non-excluded contractual liability. Any potential liability of the Trustees with respect to their foregoing obligations or their failure to perform the same shall be governed by the provisions of Sections 4.9, 17.1 and 17.4. Nothing in this Declaration of Trust will preclude the Trustees from exercising any rights granted to them under the Tax Act or any other applicable taxation legislation to withhold from amounts payable to Unitholders or otherwise recover from Unitholders any taxes that the Trustees have paid on behalf of Unitholders.

ARTICLE 18
GENERAL

18.1 Execution of Instruments

The Trustees shall have power from time to time to appoint any Trustee or Trustees or officer or officers of the Trust or any Person or Persons on behalf of the Trust, including the Manager, either to sign instruments in writing generally or to sign specific instruments in writing. Provisions respecting the foregoing may be contained in the Trustees' Regulations.

18.2 Manner of Giving Notice

(a) Subject to Section 18.10, any notice or other document required or permitted by the provisions of this Declaration of Trust to be given to a Unitholder, a Trustee or the Auditors shall be deemed conclusively to have been given if given either by delivery or by prepaid first-class mail addressed to the Unitholder at the address shown in the Register, to a Trustee at the last address provided by such Trustee to the Chief Executive Officer of the Trust, or to the Auditors of the Trust at the last address provided by the Auditors to the Trustees, as the case may be; provided that if there is a general discontinuance of postal service due to strike, lockout or otherwise, such notice may be delivered or 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 of hand delivery or the day following that on which the notice was mailed 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 mailed, it shall be sufficient to prove that such notice was properly addressed, stamped and mailed.

(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.

18.3 Failure to Give Notice

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

18.4 Joint Holders

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

18.5 Service of Notice

Any notice or document sent by post to or left at the address of a Unitholder pursuant to this Article 18 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 or Special Voting Units concerned.

18.6 Trust Auditors

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

18.7 Fiscal Year

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

18.8 Reports to Unitholders

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

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

18.9 Trust Property to be Kept Separate

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

18.10 Electronic Documents

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

18.11 Trustees May Hold Units and Special Voting Units

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

18.12 Trust Records

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

18.13 Right to Inspect Documents

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

18.14 Taxation Information

On or before March 31 in each year (or March 30 in a leap year), or such other day as is required by applicable legislation or regulation, the Trust will provide to Unitholders who received distributions from the Trust in the prior calendar year, such information required by Canadian law to be submitted to Unitholders for Canadian income tax purposes to enable Unitholders to complete their tax returns in respect of such distributions. In particular, each Unitholder shall be informed each year of the composition of the amounts payable by the Trust to such Unitholder in terms of net income, taxable dividends, net taxable capital gains, foreign source income and return of capital, and will be informed of the portion of such net income that has been designated as taxable dividends on shares of taxable Canadian corporations and taxable capital gains and of the amount of any foreign taxes paid by the Trust in respect of which the Unitholder may claim a credit for tax purposes to the extent permitted by the Tax Act, where those items are applicable.

18.15 Consolidations

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

18.16 Counterparts

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

18.17 Severability

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

18.18 Headings for Reference Only

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

18.19 Governing Law

This Declaration of Trust and the Unit Certificates shall be interpreted and governed by and take effect exclusively in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract. Any and all disputes arising under this Declaration of Trust, whether as to interpretation, performance or otherwise, shall be subject to the exclusive jurisdiction of the courts of the Province of Ontario and each of the Trustees hereby irrevocably attorns, and each Unitholder shall be deemed to hereby irrevocably attorn, to the exclusive jurisdiction of the courts of the Province of Ontario.

18.20 Transition

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

18.21 Exchange Approval

Notwithstanding any other provision hereof, any references to or provisions herein requiring approval of the Exchange shall only apply if the relevant securities of the Trust are listed on the Exchange at such time.

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IN WITNESS WHEREOF the Trustees have hereby caused this Declaration of Trust to be executed as of the day and year first above written.

(signed) "DANIEL DRIMMER"
DANIEL DRIMMER

(signed) "KELLY SMITH"
KELLY SMITH

(signed) "HARRY ROSENBAUM"
HARRY ROSENBAUM

IN WITNESS WHEREOF the Initial Unitholder has caused this Declaration of Trust to be executed as of the day and year first above written.

STARLIGHT GROUP PROPERTY HOLDINGS INC.

Per: *(signed) "DANIEL DRIMMER"*

Name: Daniel Drimmer

Title: Authorized Signatory