



NOTICE OF SPECIAL MEETING OF UNITHOLDERS

to be held on November 21, 2024

- and -

**NOTICE OF APPLICATION TO THE ONTARIO SUPERIOR COURT OF
JUSTICE**

- and -

MANAGEMENT INFORMATION CIRCULAR

with respect to a

**PLAN OF ARRANGEMENT INVOLVING, AMONG OTHERS,
KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST**

October 18, 2024

This Notice, Information Circular and the accompanying materials require your immediate attention, require you to make important decisions and contain important deadlines. If you are in doubt as to the actions required to be taken by these documents or the matters discussed therein, please consult your professional advisors. No securities regulatory authority has expressed an opinion about, or passed upon the fairness or merits of the transaction described in this document, the securities being offered pursuant to such transaction or the adequacy of the information contained in this document and it is an offense to claim otherwise.



October 18, 2024

Dear Unitholders:

On behalf of the Board of Trustees of Killam Apartment Real Estate Investment Trust ("**Killam**" or the "**REIT**"), I am pleased to invite you to attend Killam's Special Meeting of Unitholders taking place at 10:00 a.m. (Atlantic time) on November 21, 2024, at the Halifax Marriott Harbourfront Hotel, 1919 Upper Water Street, Halifax, NS, B3J 3J5 (the "**Meeting**"). This is an important meeting, as holders of Killam's trust units and special voting units (collectively, "**Unitholders**") are being asked to approve an arrangement under the *Canada Business Corporations Act* (the "**Arrangement**") to simplify Killam's organizational structure on the terms contemplated in the plan of arrangement attached as Appendix E to the accompanying management information circular (the "**Information Circular**"). The proposed Arrangement is the result of an extensive review of the most beneficial structure for Killam. The Arrangement will simplify Killam's organizational structure by eliminating Killam Properties Inc. ("**KPI**"), a wholly-owned subsidiary of the REIT. In the existing structure, KPI is allocated its share of income and capital gains as a partner of Killam Apartment Subsidiary Limited Partnership. The Arrangement is expected to reduce or eliminate potential corporate taxation in respect of income and capital gains allocated to KPI, thereby increasing future cash flow for distribution to the REIT. The Arrangement is also expected to reduce the complexity of accounting and legal reporting and income tax compliance inherent in Killam's existing structure.

There is important information regarding the Arrangement included in the Information Circular. I encourage you to read the Information Circular prior to voting, either at the Meeting, or through a proxy before the Meeting. We've added a "Summary Information" section and a "Frequently Asked Questions" section to help Unitholders understand the Arrangement. Despite the structural changes that would result from the Arrangement, I'd like to assure you that completing the proposed Arrangement will not result in a change in your unit holdings in Killam or Killam's strategy, portfolio or operations. The proposed Arrangement is an internal reorganization only. Killam's strategy will remain consistent – drive value and profitability by focusing on three priorities: (1) increase earnings from the existing portfolio, (2) expand the portfolio and diversify geographically through accretive acquisitions, targeting newer properties and dispositions of non-core assets, and (3) develop high-quality properties in its core markets.

Receiving Unitholder approval is a necessary step in meeting the requirements to complete the proposed Arrangement. Although the timing of the completion for the Arrangement can't be predicted with certainty, we are aiming to complete the Arrangement on or about November 30, 2024.

On behalf of the Board of Trustees, management and the employees of Killam, I would like to thank you for your consideration of this important transaction and for your continued support of Killam.

Yours truly,

(signed) "*Philip D. Fraser*"

Philip D. Fraser
President and Chief Executive Officer

KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST
NOTICE OF SPECIAL MEETING OF UNITHOLDERS

NOTICE IS HEREBY GIVEN that, pursuant to an order (the "**Interim Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 18, 2024 a special meeting (the "**Meeting**") of the holders of units (the "**REIT Units**") and the holders of special voting units ("**Special Voting Units**" and together with the REIT Units, "**Units**") of Killam Apartment Real Estate Investment Trust ("**Killam**" or the "**REIT**") will be held at the Halifax Marriott Harbourfront Hotel, 1919 Upper Water Street, Halifax, NS, B3J 3J5 on November 21, 2024 at 10:00 a.m. (Atlantic time), for the following purposes:

1. to consider pursuant to the Interim Order and, if deemed advisable, to pass, with or without variation, a special resolution, the full text of which is set forth in Appendix A to the accompanying information circular dated October 18, 2024 (the "**Information Circular**"), to approve the plan of arrangement (the "**Plan of Arrangement**") attached as Appendix E to the Information Circular to implement an arrangement under section 192 of the *Canada Business Corporations Act* (the "**Arrangement**"), all as more particularly described in the Information Circular (the "**Arrangement Resolution**"); and
2. to transact such other business as may properly be brought before the Meeting or any adjournment thereof.

Specific details of the matter proposed to be put before the Meeting are set forth in the accompanying Information Circular.

Each person who is a holder of record of Units at the close of business on October 18, 2024 (the "**Record Date**") is entitled to receive notice of, and to attend and vote at, the Meeting, and any adjournment thereof. Pursuant to the Interim Order, the number of votes required to pass the Arrangement Resolution shall be not less than 66⅔% of the votes cast by holders of REIT Units and Special Voting Units, either in person or by proxy, voting together as a single class at the Meeting.

Registered holders of REIT Units as of the Record Date have the right to dissent with respect to the Arrangement and, if the Arrangement becomes effective, to be paid the fair value of their REIT Units in accordance with the provisions of section 190 of the *Canada Business Corporations Act*, the Plan of Arrangement and the Interim Order. A Unitholder's right to dissent is more particularly described in the accompanying Information Circular. Failure to strictly comply with the requirements set forth in section 190 of the *Canada Business Corporations Act*, as modified by the Plan of Arrangement and the Interim Order, may result in the loss of any right of dissent. See the section entitled "*The Arrangement – Dissent Rights*" in the accompanying Information Circular and Appendix D to the Information Circular. Beneficial owners of REIT Units registered in the name of a broker, trustee, financial institution or other nominee who wish to dissent should be aware that only registered owners of REIT Units are entitled to dissent.

A Unitholder may attend the Meeting in person or may be represented by proxy. Unitholders who are unable to attend the Meeting in person are entitled to be represented by proxy and are requested to complete, date, sign and return the instrument of proxy, or other appropriate form of proxy, in accordance with the instructions included in the Information Circular. To ensure a vote is counted, proxies must be received by Killam's Transfer Agent, Computershare Investor Services Inc., at 100 University Avenue, 8th floor, Toronto, Ontario, M5J 2Y1 by 10:00 a.m. (Atlantic time) on November 19, 2024.

DATED at Halifax, Nova Scotia this 18th day of October, 2024.

By order of the Board of Trustees,

(signed) "*Philip D. Fraser*"

Philip D. Fraser

President and Chief Executive Officer

(This page intentionally left blank)

TABLE OF CONTENTS

FREQUENTLY ASKED QUESTIONS ABOUT THE PLAN OF ARRANGEMENT AND THE ARRANGEMENT	1
KEY DATES	3
GENERAL INFORMATION	4
FORWARD-LOOKING STATEMENTS	4
INFORMATION FOR UNITED STATES SECURITYHOLDERS.....	5
GLOSSARY	6
SUMMARY INFORMATION	12
THE ARRANGEMENT	16
PARTIES TO THE ARRANGEMENT.....	28
CERTAIN CANADIAN FEDERAL INCOME TAX CONSIDERATIONS	33
ELIGIBILITY FOR INVESTMENT	41
RISK FACTORS	42
PROXY AND VOTING INFORMATION	44
AUDITOR, TRANSFER AGENT AND REGISTRAR	47
ADDITIONAL INFORMATION.....	47
APPENDIX A ARRANGEMENT RESOLUTION	A-1
APPENDIX B INTERIM ORDER.....	B-1
APPENDIX C NOTICE OF APPLICATION FOR THE FINAL ORDER	C-1
APPENDIX D SECTION 190 OF THE <i>CANADA BUSINESS CORPORATIONS ACT</i>	D-1
APPENDIX E PLAN OF ARRANGEMENT.....	E-1
APPENDIX F BLACKLINE TO THE DECLARATION OF TRUST.....	F-1

FREQUENTLY ASKED QUESTIONS ABOUT THE PLAN OF ARRANGEMENT AND THE ARRANGEMENT

The following questions and answers are intended to help Unitholders understand the proposed Plan of Arrangement and Arrangement, and other matters described in this Information Circular. These questions and answers do not describe everything that Unitholders should consider before voting on the matter at the Meeting. Accordingly, Unitholders are encouraged to read this Information Circular and the Appendices hereto in their entirety. For an explanation of certain defined terms used in these questions and answers, please refer to the Glossary.

1. What are Unitholders being asked to vote on?

Unitholders are being asked to vote to approve the Arrangement, which will be implemented on the terms contemplated in the Plan of Arrangement in Appendix E to this Information Circular. The Arrangement, if approved and effected, would simplify Killam's organizational structure thereby minimizing Killam's exposure to corporate taxation and potentially increasing future cash flow for distribution to the REIT. The Arrangement must be approved by not less than 66⅔% of the votes cast by REIT Unitholders and Special Voting Unitholders, voting together as a single class, either in person or by proxy at the Meeting, in accordance with the terms of the Declaration of Trust and the Interim Order.

2. Who can vote at the Meeting?

Only holders of REIT Units and Special Voting Units are entitled to vote at the Meeting, either in person or by proxy. Each REIT Unit and each Special Voting Unit held is entitled to one vote per Unit. REIT Unitholders and Special Voting Unitholders will vote together as a single class at the Meeting. Special Voting Units are associated with the Exchangeable LP Units of Killam MLP, which is controlled by the REIT. The Exchangeable LP Units are intended to be economically equivalent to and exchangeable for REIT Units on a one-for-one basis and are accompanied by Special Voting Units of the REIT that provide their holders with equivalent voting rights to holders of REIT Units.

Unitholders who do not hold Units in their own name on the records of Killam are not entitled to receive notice of the Meeting or to vote in respect of such Units at the Meeting, and should refer to the section entitled "*Proxy and Voting Information – Advice to Beneficial Unitholders*" for details regarding how they may exercise voting rights in respect of Units beneficially held by them.

3. Why is Killam planning the Arrangement?

The Arrangement will simplify Killam's organizational structure by eliminating KPI, a wholly-owned subsidiary of the REIT, so that Killam MLP holds its entire investment in Killam SLP directly, rather than partially through KPI. In the existing structure, KPI is allocated its share of income and capital gains as a partner of Killam SLP. The Arrangement is expected to reduce or eliminate potential corporate taxation in respect of income and capital gains allocated to KPI, thereby increasing future cash flow for distribution to the REIT.

The Arrangement is also expected to reduce the complexity of accounting and legal reporting and income tax compliance inherent in the existing structure. See "*Summary Information – The Arrangement – Arrangement Steps*".

4. Will the strategy of Killam after the Arrangement be different from Killam's current strategy?

No, Killam's strategy following the Arrangement will be consistent with Killam's current strategy: drive value and profitability by focusing on three priorities: (1) increase earnings from the existing portfolio, (2) expand the portfolio and diversify geographically through accretive acquisitions, targeting newer properties and dispositions of non-core assets, and (3) develop high-quality properties in its core markets.

5. What will happen to my REIT Units?

REIT Unitholders who do not properly exercise their Arrangement Dissent Rights will continue to hold the same number of REIT Units following the Arrangement as such holders held immediately prior to the implementation of the Arrangement. Although the REIT Units outstanding immediately prior to the implementation of the Arrangement will be subject to certain steps in the Plan of Arrangement and additional REIT Units will be issued from treasury as a result of certain steps in the Plan of Arrangement, all REIT Units will be consolidated such that REIT Unitholders will continue to hold the same number of REIT Units before and after the implementation of the Arrangement.

6. What will happen to my Exchangeable LP Units and associated Ancillary Rights?

Exchangeable LP Units (and any associated Ancillary Rights) are not subject to any steps in the Plan of Arrangement and will remain outstanding following the implementation of the Arrangement. Although the Exchangeable LP Units are not subject to the Plan of Arrangement, they are accompanied by Special Voting Units of the REIT that provide their holders with equivalent voting rights to holders of REIT Units. Accordingly, holders of Exchangeable LP Units (by virtue of their Special Voting Units) are entitled to vote at the Meeting, notwithstanding their securities are not involved in the Arrangement.

7. What are the income tax consequences of the Arrangement on my REIT Units or my Exchangeable LP Units?

There should be no material Canadian federal income tax consequences to Unitholders that participate in the Arrangement. After the Arrangement and the Related Transactions are completed, Unitholders will hold the same number, type and percentage of outstanding REIT Units as they held immediately before the Arrangement. Also, the total number of REIT Units outstanding immediately following the Arrangement will be the same as before, and the REIT Units will continue to be listed on the TSX and retain the same CUSIP number. There will be no change to the distribution policy of Killam in connection with the Arrangement. Exchangeable LP Units do not participate in the Arrangement and Exchangeable LP Units will continue to remain outstanding and are not subject to any direct consequences as a result of the Arrangement. See "*Certain Canadian Federal Income Tax Considerations*" in this Information Circular for further details.

8. When is the Arrangement expected to take place?

If all necessary approvals associated with the Arrangement are obtained, Killam expects the Arrangement to become effective on or about November 30, 2024. The necessary approvals to implement the Arrangement are described under "*The Arrangement – Approvals Required for the Arrangement*" in this Information Circular. However, the Trustees reserve the right not to proceed with the Arrangement even in circumstances where it has been approved by Unitholders. Accordingly, Unitholders are advised that voting for the Arrangement Resolution does not mean that the Arrangement will be implemented. See "*The Arrangement – Amendment of the Plan and Factors Affecting Implementation of the Arrangement*". The Arrangement must also be approved by the Court. See "*The Arrangement – Approvals Required for the Arrangement – Court Approval*".

In addition, various regulatory and third-party approvals and consents are required, including the Advance Tax Ruling, which has been obtained by Killam. See "*Approvals Required for the Arrangement – Regulatory Approvals*" and "*Approvals Required for the Arrangement – Third-Party Approvals*".

9. What if the necessary Unitholder and other approvals are not obtained?

Failure to obtain the Unitholder or Court approvals would likely result in the decision being made to not proceed with the Arrangement. If any of the required approvals cannot be obtained on terms satisfactory to the Trustees, or at all, the Plan of Arrangement may have to be amended in order to mitigate against the negative consequence of the failure to obtain any such approval, and accordingly, the anticipated benefits available to Unitholders resulting from the Arrangement may be reduced. Alternatively, in the event that the Plan of Arrangement cannot

be amended so as to mitigate against the negative consequence of the failure to obtain a required regulatory or third-party approval, the Arrangement may not proceed at all.

10. What should I do now? How can I vote?

You should read and carefully consider the information contained in this Information Circular. You should also determine whether you hold Units directly in your name or through an investment dealer, bank, trust company or other intermediary, since this will determine the procedures that you must follow in order to vote with respect to matters at the Meeting. Please refer to "*Proxy and Voting Information*" for more information on how to vote.

11. Who should I contact with questions regarding the Meeting or the Arrangement?

You should contact Dale Noseworthy, Chief Financial Officer of Killam at (902) 442-0388 or by email at dnoseworthy@killamreit.com.

KEY DATES

Please note the following key dates and information pertaining to the proposed Arrangement and Meeting:

Meeting Date:	November 21, 2024 at 10:00 a.m. (Atlantic time)
Meeting Location:	Halifax Marriott Harbourfront Hotel 1919 Upper Water Street, Halifax, NS, B3J 3J5
Deadline for Return of Proxies:	November 19, 2024 at 10:00 a.m. (Atlantic time)
Anticipated Effective Date of the Arrangement:	Killam expects the Effective Date to be on or about November 30, 2024.

GENERAL INFORMATION

This Information Circular is furnished in connection with the solicitation of proxies by and on behalf of Management for use at the Meeting. No person has been authorized to give any information or make any representation in connection with the Arrangement or any other matters to be considered at the Meeting other than those contained in this Information Circular and, if given or made, any such information or representation must not be relied upon as having been authorized by Killam or Management.

All summaries of, and references to, the Arrangement in this Information Circular are qualified in their entirety by reference to the complete text of the Plan of Arrangement, a copy of which is attached as Appendix E to this Information Circular. You are urged to carefully read the full text of the Plan of Arrangement.

All capitalized terms used in this Information Circular but not otherwise defined herein have the meanings set forth under "*Glossary*". Information contained in this Information Circular is given as of the date of this Information Circular unless otherwise specifically stated.

FORWARD-LOOKING STATEMENTS

Certain statements contained in this Information Circular may contain forward-looking statements and forward-looking information (collectively, "forward-looking statements"), including within the meaning of applicable securities law. In some cases, forward-looking statements can be identified by the use of words such as "may", "will", "should", "expect", "plan", "anticipate", "believe", "estimate", "potential", "continue", "target", "committed", "priority", "remain", "strategy", "future" or the negative of these terms or other comparable terminology, and by discussions of strategies that involve risks and uncertainties.

Such forward-looking statements contained in this Information Circular may include, among other things, statements regarding: the intention to complete the Arrangement and the timing thereof; Killam's ability to obtain the necessary third-party and regulatory approvals to complete the Arrangement; the expected benefits of the Arrangement to the REIT and its Unitholders; the completion of the Pre-Arrangement Transactions and the Post-Arrangement Transactions; the strategy of the REIT; and the intention to pay distributions to the Unitholders and the amount thereof.

Readers should be aware that these forward-looking statements are subject to known and unknown risks, uncertainties and other factors that could cause actual results to differ materially from those anticipated or implied, or those suggested by any forward-looking statements, including: the REIT's ability to obtain the necessary regulatory and third-party approvals, including, among others, Court, Unitholder and TSX approval; risks related to tax legislation and the interpretation and application thereof; the effects and duration of local, international and global events, any government responses thereto and the effectiveness of measures intended to mitigate any impacts thereof; competition; government legislation and the interpretation and enforcement thereof; litigation to which the REIT may be subject; global, national and regional economic conditions (including rising interest rates and inflation); and the availability of capital to fund further investments in the REIT's business. Further information regarding these risks, uncertainties and other factors may be found under the "Risk Factors" section in this Information Circular and in the REIT's most recently filed annual information form, as well as the REIT's most recently filed annual and interim management's discussion and analysis each of which are available on SEDAR+ at www.sedarplus.ca. Given these uncertainties, readers are cautioned not to place undue reliance on any forward-looking statements contained in this Information Circular.

By their nature, forward-looking statements involve numerous assumptions, inherent risks and uncertainties, both general and specific, that contribute to the possibility that the predictions, forecasts, projections and various future events contained therein may not occur. Although Management believes that the expectations reflected in the forward-looking statements are reasonable, there can be no assurance that future results, levels of activity, performance or achievements will occur as anticipated.

While the REIT anticipates that subsequent events and developments may cause the REIT's view to change, Killam does not intend to update or revise any forward-looking statement, whether as a result of new information, future events, circumstances, or such other factors that affect this information, except as required by applicable law. The

forward-looking statements in this document are provided for the limited purpose of enabling current and potential investors to evaluate an investment in the REIT. Readers are cautioned that such statements may not be appropriate and should not be used for any other purpose.

INFORMATION FOR UNITED STATES SECURITYHOLDERS

THE SECURITIES ISSUABLE IN CONNECTION WITH THE ARRANGEMENT HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR SECURITIES REGULATORY AUTHORITIES IN ANY STATE OR OTHER U.S. JURISDICTION; NOR HAS THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES REGULATORY AUTHORITIES OF ANY STATE OR OTHER U.S. JURISDICTION PASSED UPON THE ADEQUACY OR ACCURACY OF THIS INFORMATION CIRCULAR. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The securities to be issued under the Arrangement have not been registered under the United States Securities Act of 1933, as amended (the "**1933 Act**"), or any state securities laws, and are being issued in reliance on the exemption from registration set forth in Section 3(a)(10) of the 1933 Act on the basis of the approval of the Court, which will consider, among other things, the procedural and substantive fairness of the Arrangement to Unitholders.

Unitholders should be aware that the acquisition of the securities described herein may have tax consequences both in the United States and in Canada. Such consequences for investors who are resident in, or citizens of, the United States are not described herein. U.S. Securityholders should consult their own tax advisors regarding the United States federal, state and local and foreign tax consequences of participating in the Arrangement.

Financial statements and information included or incorporated by reference herein have been prepared in accordance with IFRS and are subject to auditing and auditor independence standards in Canada. These financial statements may not be comparable to financial statements of United States companies prepared in accordance with United States generally accepted accounting principles and the rules and regulations of the United States Securities and Exchange Commission and United States auditing and auditor independence standards.

The enforcement by investors of civil liabilities under the United States federal securities laws may be affected adversely by the fact that the REIT is formed in a jurisdiction outside the United States, that some or all of its officers, Trustees and the experts named herein are residents of a foreign country, and that all or a substantial portion of the assets of the REIT and said persons are located outside the United States. As a result, it may be difficult or impossible for U.S. Securityholders to effect service of process within the United States upon the REIT, its officers, Trustees, or the experts named herein, or to realize, against them, upon judgments of courts of the United States predicated upon civil liabilities under the federal securities laws of the United States or "blue sky" laws of any state or other jurisdiction within the United States. In addition, U.S. Securityholders should not assume that the courts of Canada: (a) would enforce judgments of United States courts obtained in actions against such persons predicated upon civil liabilities under the federal securities laws of the United States or "blue sky" laws of any state or other jurisdiction within the United States; or (b) would enforce, in original actions, liabilities against such persons predicated upon civil liabilities under the federal securities laws of the United States or "blue sky" laws of any state or other jurisdiction within the United States.

GLOSSARY

The following terms used in this Information Circular have the meanings set forth below.

"1933 Act" has the meaning ascribed thereto under *"Information for United States Securityholders"*;

"2024 Capital Gains Proposals" has the meaning ascribed thereto under *"Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Taxation of Capital Gains and Capital Losses"*;

"Advance Tax Ruling" means the advance income tax ruling of the CRA which has been applied for and received by the REIT in connection with the Arrangement;

"Amended and Restated Declaration of Trust" means the amended and restated Declaration of Trust of the REIT, which will become effective as a step in the Plan of Arrangement;

"Ancillary Rights" means, in respect of an Exchangeable LP Unit, the Support Rights and related Special Voting Units, collectively;

"Arrangement" means the arrangement described in the Plan of Arrangement;

"Arrangement Dissent Rights" means the right of dissent provided for in the Interim Order and the Plan of Arrangement and available to registered REIT Unitholders as of the Record Date in connection with the Arrangement;

"Arrangement Resolution" means the special resolution to be considered by REIT Unitholders and Special Voting Unitholders, voting together as a single class, at the Meeting in substantially the form attached to this Information Circular as Appendix A;

"Articles of Arrangement" means the articles of arrangement in respect of the Arrangement required under section 192 of the CBCA to be filed with the Director under the CBCA giving effect to the Arrangement;

"Beneficial Unitholder" has the meaning ascribed thereto under *"Proxy and Voting Information – Advice to Beneficial Unitholders"*;

"Board" or **"Board of Trustees"** means the board of Trustees of the REIT;

"Broadridge" means Broadridge Financial Solutions Inc.;

"capital property" has the meaning assigned by section 54 and subsection 248(1) of the Tax Act;

"CBCA" means the *Canada Business Corporations Act*;

"Certificate of Arrangement" means the certificate or certificates or other confirmation of filing to be issued by the Director under the CBCA, pursuant to section 192 of the CBCA giving effect to the Arrangement;

"Class A Redemption Amount" means the aggregate redemption price for which either Killam MFC or Killam Amalco MFC, as the case may be, can, at its election, redeem the outstanding Class A Shares. For the purposes of the Plan of Arrangement, the Class A Redemption Amount is in the aggregate: (i) \$0.01 plus the amount of all declared but unpaid dividends on each outstanding Class A Share immediately prior to the time of redemption, multiplied by (ii) the number of Class A Shares outstanding immediately prior to the time of redemption. The Class A Redemption Amount may be paid in REIT Units;

"Class A Shares" means the Class A Preferred Shares in the capital of Killam MFC. Following the amalgamation of Killam MFC and KPI pursuant to Section 3.1(h) of the Plan of Arrangement, **"Class A Shares"** means the Class A Preferred Shares in the capital of Killam Amalco MFC;

"Class B Redemption Amount" means the aggregate redemption price for which either Killam MFC or Killam Amalco MFC, as the case may be, can, at its election, redeem the outstanding Class B Shares. For the purposes of the Plan of Arrangement, the Class B Redemption Amount is in the aggregate, an amount equal to the aggregate fair market value of the KPI Shares, the Killam REIT IB Note and the Killam MLP IB Note, at the time of their transfer by Killam MLP to Killam MFC in consideration for Class B Shares pursuant to Section 3.1(g) of the Plan of Arrangement, plus the aggregate amount of all declared but unpaid dividends on the Class B Shares outstanding immediately prior to the time of redemption. The Class B Redemption Amount may be paid in Special Units;

"Class B Shares" means the Class B Preferred Shares in the capital of Killam MFC. Following the amalgamation of Killam MFC and KPI pursuant to Section 3.1(h) of the Plan of Arrangement, **"Class B Shares"** means the Class B Preferred Shares in the capital of Killam Amalco MFC;

"Computershare" means Computershare Investor Services Inc.;

"Court" means the Ontario Superior Court of Justice (Commercial List);

"CRA" means the Canada Revenue Agency;

"Declaration of Trust" means the amended and restated declaration of trust of the REIT dated November 27, 2015 pursuant to which the REIT was established under the laws of the Province of Ontario, as the same may be further amended and/or restated from time to time;

"Deferred Plans" has the meaning ascribed thereto under *"Eligibility for Investment"*;

"Director" means the director duly appointed under the CBCA;

"Dissenting Unitholder" means any registered REIT Unitholder as at the Record Date who duly and validly exercises his, her or its Arrangement Dissent Rights in compliance with section 190 of the CBCA, the Interim Order and the Plan of Arrangement, and who does not, prior to the time at which the Arrangement Resolution is approved, withdraw or otherwise relinquish his, her or its Arrangement Dissent Rights;

"Dissenting Units" means the REIT Units held by a Dissenting Unitholder;

"DPSP" has the meaning ascribed thereto under *"Eligibility for Investment"*;

"Effective Date" means the date shown on the Certificate of Arrangement;

"Effective Time" means the time on the Effective Date at which the Arrangement becomes effective in accordance with the CBCA which shall be 12:01 a.m. (Eastern time);

"EIFEL Rules" has the meaning ascribed thereto under *"Risk Factors – Risks Related to Taxes – Tax Risk"*;

"Exchange and Support Agreement" means the Exchange and Support Agreement respecting the exchange of Exchangeable LP Units into REIT Units, dated January 1, 2016;

"Exchangeable LP Units" means the Class B limited partnership units of Killam MLP;

"Exchangeable LP Unitholder(s)" means the holder(s) of Exchangeable LP Units;

"Final Order" means the order of the Court approving the Arrangement to be applied for following the Meeting and to be granted pursuant to the provisions of section 192 of the CBCA, as such order may be affirmed, amended or modified by any court of competent jurisdiction;

"IFRS" means International Financial Reporting Standards;

"Information Circular" means this management information circular, including all appendices attached hereto;

"Interim Order" means the order of the Court dated October 18, 2024, under section 192 of the CBCA containing declarations and directions with respect to the Arrangement and the Meeting and issued pursuant to the application of Killam, a copy of which Interim Order is attached as Appendix B to this Information Circular;

"Killam" or the **"REIT"** means Killam Apartment Real Estate Investment Trust, a trust formed under the laws of the Province of Ontario pursuant to the Declaration of Trust and includes, where the context requires, the REIT's Subsidiaries;

"Killam Amalco MFC" means the corporation existing under the laws of Canada that will be formed from the amalgamation of KPI and Killam MFC pursuant to Section 3.1(h) of the Plan of Arrangement;

"Killam Amalco MFC Transfer Time" means the time at which Killam Amalco MFC transfers certain property to the REIT pursuant to Section 3.1(i) of the Plan of Arrangement;

"Killam GP I" means Killam Apartment General Partner Ltd., the general partner of Killam MLP and a corporation formed under the OBCA, and any successor thereto;

"Killam GP II" means Killam Properties SGP Ltd., the general partner of Killam SLP and a corporation formed under the OBCA, and any successor thereto;

"Killam MFC" means 16430929 Canada Inc. a corporation existing under the laws of Canada;

"Killam MFC Common Shares" means the common shares in the capital of Killam MFC;

"Killam MLP" means Killam Apartment Limited Partnership, a limited partnership formed by the Killam MLP Agreement;

"Killam MLP Agreement" means the limited partnership agreement establishing Killam MLP under the laws of Ontario, dated October 28, 2015, and as may be further supplemented, amended or amended and restated from time to time;

"Killam MLP Class A GP Units" means the Class A general partnership units issued by Killam MLP;

"Killam MLP Class A LP Units" means the Class A limited partnership units issued by Killam MLP;

"Killam MLP IB Note" means the unsecured promissory note issued by KPI to Killam MLP bearing interest at 4.5% per annum with a principal amount immediately prior to the Effective Time of \$361,977,464;

"Killam REIT IB Note" means the unsecured promissory note issued by KPI to the REIT bearing interest at 5.83% per annum with a principal amount immediately prior to the Effective Time of \$101,304,329;

"Killam SLP" means Killam Apartment Subsidiary Limited Partnership, a limited partnership formed by the Killam SLP Agreement;

"Killam SLP Agreement" means the limited partnership agreement establishing Killam SLP under the laws of Ontario, dated December 9, 2015, and as may be further supplemented, amended or amended and restated from time to time;

"Killam SLP Class A GP Units" means the Class A general partnership units issued by Killam SLP;

"Killam SLP Class A LP Units" means the Class A limited partnership units issued by Killam SLP;

"Killam SLP Class B LP Units" means the Class B limited partnership units issued by Killam SLP;

"Killam SLP Class C LP Units" means the Class C limited partnership units issued by Killam SLP;

"Killam Sub II LP" has the meaning ascribed thereto under *"Parties to the Arrangement – Killam Properties SGP Ltd. (Killam GP II)"*;

"KPI" means Killam Properties Inc., a corporation existing under the laws of Canada;

"KPI Arrangement" has the meaning ascribed thereto under *"Parties to the Arrangement – Killam Apartment Real Estate Investment Trust (the REIT)"*;

"KPI Shares" means the issued and outstanding common shares in the capital of KPI;

"Management" means the management of the REIT;

"Meeting" means the special meeting of Unitholders in respect of which this Information Circular is provided, and any adjournment or postponement thereof;

"New LP" means Killam Apartment Subsidiary 2024 Limited Partnership, a limited partnership formed by a limited partnership agreement dated October 10, 2024;

"New LP General Partner Units" means the general partner units of New LP;

"New LP Limited Partner Units" means the limited partner units of New LP;

"New LP Note" means the unsecured non-interest-bearing demand promissory note issued by New LP to KPI;

"New LP Units" means collectively, New LP General Partner Units and New LP Limited Partner Units;

"NI 54-101" means National Instrument 54-101, *Communication with Beneficial Owners of Securities of a Reporting Issuer*;

"Non-Objecting Beneficial Owners" or "NOBOs" has the meaning ascribed thereto under *"Proxy and Voting Information – Advice to Beneficial Unitholders"*;

"Non-Resident" means a person who is a "non-resident" within the meaning of the Tax Act and a partnership other than a Canadian partnership for the purposes of the Tax Act;

"Non-Resident Dissenter" has the meaning ascribed thereto under *"Certain Canadian Federal Income Tax Considerations – REIT Unitholders Not Resident in Canada – Dissenting Non-Resident REIT Unitholders"*;

"Notice of Meeting" or "Notice" means the notice of the Meeting dated October 18, 2024 accompanying this Information Circular;

"OBCA" means the *Business Corporations Act* (Ontario), RSO 1990, c B.16, as amended;

"Objecting Beneficial Owners" or "OBOs" has the meaning ascribed thereto under *"Proxy and Voting Information – Advice to Beneficial Unitholders"*;

"Officer's Certificate" has the meaning ascribed thereto under *"Certain Canadian Federal Income Tax Considerations"*;

"Participating Unitholders" means all of the Unitholders immediately prior to the Effective Time other than any Dissenting Unitholders;

"Parties" means the parties to the Plan of Arrangement, as may be amended from time to time, being, as of the date of this Information Circular, the REIT, Killam MFC, Killam MLP, KPI, and New LP and **"Party"** means any one of them, as the case may be;

"Period 1" has the meaning ascribed thereto under *"Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Taxation of Capital Gains and Capital Losses"*;

"Period 2" has the meaning ascribed thereto under *"Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Taxation of Capital Gains and Capital Losses"*;

"Person" means and includes individuals, corporations, partnerships, general partnerships, joint stock companies, limited liability corporations, joint ventures, associations, companies, trusts, banks, trust companies, pension funds, business trusts or other organizations, whether or not legal entities, and government and agencies and political subdivisions thereof;

"Plan of Arrangement" means the Plan of Arrangement attached as Appendix E to this Information Circular, as the same may be amended and/or restated in accordance with its terms and the terms of the Plan of Arrangement and the Interim Order;

"Post-Arrangement Transactions" has the meaning ascribed thereto under *"The Arrangement – General Description of the Arrangement – Post-Arrangement Transactions"*;

"Pre-Arrangement Transactions" has the meaning ascribed thereto under *"The Arrangement – General Description of the Arrangement – Pre-Arrangement Transactions"*;

"Proxy" has the meaning ascribed thereto under *"Proxy and Voting Information"*;

"Record Date" means October 18, 2024 being the date set by the Board for determining the Unitholders entitled to receive notice of, and to attend and to vote at, the Meeting;

"Regulations" means the regulations under the Tax Act;

"REIT Units" means trust units in the capital of the REIT, other than Special Voting Units or Special Units;

"REIT Unitholder(s)" means the holder(s) of REIT Units;

"Related Transactions" means collectively the Pre-Arrangement Transactions and the Post-Arrangement Transactions;

"Resident Dissenter" has the meaning ascribed thereto under *"Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Tax Considerations of the Arrangement – Dissenting Resident REIT Unitholders"*;

"Resident REIT Unitholder" has the meaning ascribed thereto under *"Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada"*;

"Right of Renunciation" means the right which permits a subsidiary of the REIT to renounce, release and surrender, for no consideration, all rights and benefits in and to the Special Units by delivering a written notice of renunciation to the REIT, in accordance with the Amended and Restated Declaration of Trust;

"RTU Plan" means the amended and restated restricted trust unit plan of Killam;

"SEDAR+" means the System for Electronic Document Analysis and Retrieval+;

"**SIFT Rules**" has the meaning ascribed thereto under "*Certain Canadian Federal Income Tax Considerations of the REIT as a Mutual Fund Trust and Real Estate Investment Trust*";

"**Special Unit**" means a special unit of Killam REIT with preferential attributes as set out in the Amended and Restated Declaration of Trust;

"**Special Unitholder(s)**" means the holder(s) of Special Units;

"**special resolution**" means, a resolution proposed to be passed as a special resolution at a meeting of Unitholders (including an adjourned meeting) duly convened for that purpose and at which at least two Unitholders are present in person or represented by proxy and holding or representing by proxy in aggregate not less than 25% of the total number of outstanding Units and passed by the affirmative votes of the holders of more than 66⅔% of the Units represented at such meeting and voted on a poll upon such resolution or passed in such other manner as provided in the Declaration of Trust;

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

"**Special Voting Unitholder(s)**" means the holder(s) of Special Voting Units;

"**Subsidiary**" includes, with respect to any person, company, partnership, limited partnership, trust or other entity, any company, partnership, limited partnership, trust or other entity controlled, directly or indirectly, by such person, company, partnership, limited partnership, trust or other entity;

"**Support Rights**" means the embedded right granted to the holders of the Exchangeable LP Units to cause Killam MLP to exchange each Exchangeable LP Unit for one REIT Unit (subject to adjustment) as supported by the Exchange and Support Agreement;

"**Tax Act**" means the *Income Tax Act* (Canada), R.S.C. 1985, c. 1. (5th Supp), as amended, including the Regulations promulgated thereunder;

"**taxable Canadian property**" means "taxable Canadian property" as defined in the Tax Act;

"**Tax Proposals**" has the meaning ascribed thereto under "*Certain Canadian Federal Income Tax Considerations*";

"**treaty-protected property**" means "treaty-protected property" as defined in the Tax Act;

"**Transitional Year**" has the meaning ascribed thereto under "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Taxation of Capital Gains and Capital Losses*";

"**Trustee**" means a trustee of the REIT and "**Trustees**" means all of the trustees of the REIT;

"**TSX**" means the Toronto Stock Exchange;

"**Unitholder(s)**" means the holder(s) of Units;

"**Units**" means, together, the REIT Units and the Special Voting Units;

"**U.S. Securityholders**" means holders of Units in the United States; and

"**VIF**" has the meaning ascribed thereto under "*Proxy and Voting Information*".

SUMMARY INFORMATION

This summary highlights information that is more fully discussed elsewhere in this Information Circular. This summary is not intended to be complete and is qualified in its entirety by reference to the more detailed information contained in this Information Circular. Unitholders are urged to read the more detailed information about Killam, the Arrangement and the REIT contained elsewhere in this Information Circular and the documents incorporated by reference into this Information Circular. Certain capitalized terms used in this summary are defined under "Glossary".

MEETING OF UNITHOLDERS

The Meeting will be held on November 21, 2024 at 10:00 a.m. (Atlantic time) at the Halifax Marriott Harbourfront Hotel, 1919 Upper Water Street, Halifax, NS, B3J 3J5. At the Meeting, Unitholders will be asked to consider, and if thought advisable, pass the Arrangement Resolution in the form attached hereto as Appendix A, with or without variation.

THE ARRANGEMENT

Background to and Reasons for the Arrangement

The proposed Arrangement is the result of an extensive review of the most beneficial structure for Killam. The purpose of the Arrangement is to simplify Killam's organizational structure by eliminating KPI so that Killam MLP holds its entire investment in Killam SLP directly, rather than partially through KPI.

The Arrangement will simplify Killam's organizational structure by eliminating KPI, a wholly-owned subsidiary of the REIT, so that Killam MLP holds its entire investment in Killam SLP directly, rather than partially through KPI. In the existing structure, KPI is allocated its share of income and capital gains as a partner of Killam SLP. The Arrangement is expected to reduce or eliminate potential corporate taxation in respect of income and capital gains allocated to KPI, thereby increasing future cash flow for distribution to the REIT.

The Arrangement is also expected to reduce the complexity of accounting and legal reporting and income tax compliance inherent in the existing structure.

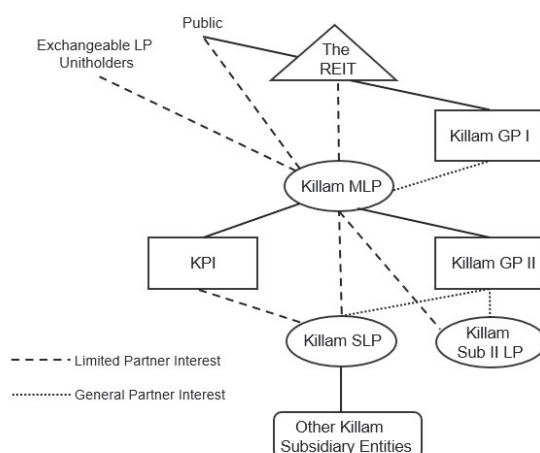
Recommendation of the Board

The Trustees have unanimously determined that, in their opinion, the Arrangement is in the best interests of the REIT. Accordingly, the Board has approved the Arrangement and unanimously recommends that Unitholders vote in favour of the Arrangement Resolution at the Meeting.

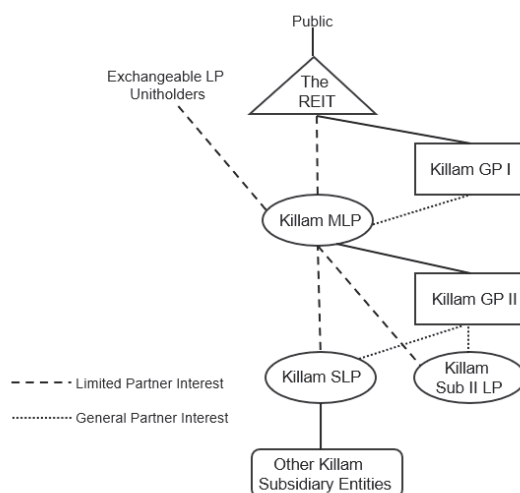
Arrangement Steps

The Arrangement will be carried out pursuant to the terms of the Plan of Arrangement, which is attached as Appendix E to this Information Circular. At the Effective Time, each of the events described under the heading "*The Arrangement – General Description of the Arrangement – Arrangement Transactions*", except as otherwise expressly provided, are deemed to occur in the order set forth in the Plan of Arrangement.

The following diagram illustrates the current structure of the REIT prior to the completion of the Arrangement and the Related Transactions:



The following diagram illustrates the structure of the REIT following the completion of the Arrangement and the Related Transactions:



Effect of the Arrangement on Unitholders

The Arrangement and the Related Transactions will not directly impact Unitholders' holdings in Killam. After the Arrangement and the Related Transactions are completed, Unitholders will hold the same number, type and percentage of outstanding Units as they held immediately before the Arrangement. Also, the total number of Units outstanding immediately following the Arrangement will be the same as before, and the REIT Units will continue to be listed on the TSX and retain the same CUSIP number. There will be no change to the distribution policy of Killam in connection with the Arrangement. Killam has applied for and received the Advance Tax Ruling from the CRA in connection with the Arrangement. Based on the Advance Tax Ruling, Killam believes that the Arrangement will not result in any

material Canadian federal income tax consequences to Participating Unitholders, REIT or the REIT subsidiaries. See *"The Arrangement – Effects of the Arrangement"*.

The proposed Arrangement is an internal reorganization only. Completing the proposed Arrangement will not result in a change in Killam's strategy, portfolio or operations. Killam's strategy will remain consistent – drive value and profitability by focusing on three priorities: (1) increase earnings from the existing portfolio, (2) expand the portfolio and diversify geographically through accretive acquisitions, targeting newer properties and dispositions of non-core assets, and (3) develop high-quality properties in its core markets.

Approvals Required for the Arrangement

Unitholder Approval

The Interim Order provides that, for the Arrangement to be implemented, the Arrangement Resolution must be passed, with or without variation, by 66 $\frac{2}{3}$ % of all the votes cast by REIT Unitholders and Special Voting Unitholders, voting together as a single class, at the Meeting in person or by proxy.

See *"The Arrangement – Approvals Required for the Arrangement – Unitholder Approval"*.

Court Approval

An arrangement under the CBCA requires Court approval. Prior to the mailing of this Information Circular, the REIT obtained the Interim Order, which provides for the calling and holding of the Meeting, and other procedural matters. A copy of the Interim Order is attached as Appendix B.

Subject to approval of the Arrangement Resolution by Unitholders at the Meeting, the hearing in respect of the Final Order is currently scheduled to take place via videoconference on November 26, 2024, at 11:00 a.m. (Eastern time) or as soon thereafter as is reasonably practicable. Any Unitholder or other person who wishes to appear, or to be represented, and to present evidence or arguments at that hearing may do so, subject to filing with the Court and serving on the counsel of the REIT, Bennett Jones LLP, at 3400 One First Canadian Place, P.O. Box 130, Toronto, Ontario, M5X 1A4, Attention: Joseph N. Blinick and William A. Bortolin no less than four days before the hearing of the application in respect of the Final Order, a notice of appearance as set out in the Notice of Application for the Final Order and satisfying any other requirements of the Court. The Notice of Application for the Final Order accompanies this Information Circular as Appendix C. At the hearing of the application for the Final Order the Court will be requested to consider the fairness of the Arrangement.

The Court may approve the Plan of Arrangement in any manner the Court may direct, subject to compliance with such terms and conditions, if any, as the Court deems fit. In the event that the hearing is postponed, adjourned or rescheduled then, subject to further order of the Court, only those persons having previously served a notice of appearance in compliance with the application and the Interim Order will be given notice of the postponement, adjournment or rescheduled date.

See *"The Arrangement – Approvals Required for the Arrangement – Court Approval"*.

Regulatory and Third-Party Approvals

In addition to the Court and Unitholder approvals, various regulatory and third-party approvals and consents are required, including the Advance Tax Ruling. See *"The Arrangement – Approvals Required for the Arrangement – Regulatory Approvals"* and *"The Arrangement – Approvals Required for the Arrangement – Third-Party Approvals"*.

Interests of Certain Persons in the Arrangement

As at the date hereof, the Trustees and officers of the REIT beneficially owned, directly or indirectly, or exercised control or direction over, an aggregate 2,044,725 REIT Units and 2,073,195 Exchangeable LP Units, representing approximately 3.34% of the total Units issued and outstanding. Each of the Trustees and officers has indicated to

Management that they intend to vote all of the Units beneficially owned, directly or indirectly, or over which control or direction is exercised by them, in favour of the Arrangement Resolution to be considered at the Meeting.

Dissent Rights

Registered REIT Unitholders as of the Record Date are entitled to exercise their Arrangement Dissent Rights by providing written notice to the REIT in the manner described under the heading "*The Arrangement – Dissent Rights*". If a REIT Unitholder validly dissents, and the Arrangement is completed, the Dissenting Unitholder is entitled to be paid the "fair value" of its REIT Units. REIT Unitholders should carefully read the section in this Information Circular entitled "*The Arrangement – Dissent Rights*" if they wish to exercise Arrangement Dissent Rights.

Amendments to the Declaration of Trust

Unitholders who vote in favour of the Arrangement Resolution will be authorizing and approving the adoption of the Amended and Restated Declaration of Trust, which includes amendments to the Declaration of Trust in connection with, and necessary to effect, the Arrangement. Among other things, amendments will be made to the Declaration of Trust to allow the REIT to pay distributions *in specie*, create the Special Units and grant each Special Unitholder that is a Subsidiary of the REIT the right to renounce, release and surrender, for no consideration, all rights and benefits in and to the Special Units of the REIT held by such Subsidiary and other amendments of a minor, housekeeping or clerical nature that are necessary or desirable and not prejudicial to the Unitholders. See "*The Arrangement – Effect of the Arrangement on the Declaration of Trust*".

CERTAIN CANADIAN FEDERAL INCOME TAX CONSIDERATIONS

Unitholders that participate in the Arrangement should not be subject to any material Canadian federal income tax consequences. Unitholders should consult their own tax advisors regarding the implications of the Arrangement. The discussion herein does not address any non-Canadian tax implications and such holders should contact their own tax advisors having regard to their own particular circumstances. The foregoing summary is subject in its entirety to the detailed discussion herein under the heading "*Certain Canadian Federal Income Tax Considerations*".

Risk Factors

An investment in Units involves numerous risks and uncertainties. Such risks and uncertainties could affect Killam, its future results, the amount of cash available for distribution to Unitholders and the nature of the REIT itself. Undertaking the Arrangement presents its own risks including the need to obtain certain Unitholder, Court, regulatory and third-party approvals. See "*Risk Factors*".

THE ARRANGEMENT

Background and Purpose of the Arrangement

The purpose of the Arrangement is to simplify Killam's organizational structure by eliminating KPI so that Killam MLP holds its entire investment in Killam SLP directly, rather than partially through KPI.

The Arrangement will simplify Killam's organizational structure by eliminating KPI, a wholly-owned subsidiary of the REIT, so that Killam MLP holds its entire investment in Killam SLP directly, rather than partially through KPI. In the existing structure, KPI is allocated its share of income and capital gains as a partner of Killam SLP. The Arrangement is expected to reduce or eliminate potential corporate taxation in respect of income and capital gains allocated to KPI, thereby increasing future cash flow for distribution to the REIT.

The Arrangement is also expected to reduce the complexity of accounting and legal reporting and income tax compliance inherent in the existing structure.

After a review of, among other factors, the minimization of corporate taxation within Killam's organizational structure and the optimal structure for delivering future cash flow to Unitholders in a tax efficient manner, the Board concluded that a reorganization of the current structure was in the best interests of the REIT. In reaching its determination and making its recommendation set out below, the Board considered a number of factors, including the mechanics, structure and timing of implementation of the Arrangement, the Advance Tax Ruling, the availability of rights for REIT Unitholders to dissent from the Arrangement and the requirement that the Arrangement be approved by at least two-thirds of the Units voted in person or by proxy at the Meeting. The Board also considered the costs and expenses of implementing the Arrangement, including professional expenses, non-income tax obligations triggered by the Arrangement and other costs. The Board concluded that the benefits to the REIT of the Arrangement, including an expected increase in free cash flow and improved potential long-term returns to Unitholders, warrant the incurrence of such costs.

The foregoing discussion of the information and factors considered and given weight by the Board is not intended to be exhaustive. In reaching the determination to approve and recommend the Arrangement, the Board did not assign any relative or specific weights to the foregoing factors, and individual Trustees may have given different weights to different factors.

Recommendation of the Board

The Trustees have unanimously determined that, in their opinion, the Arrangement is in the best interests of the REIT. Accordingly, the Board has approved the Arrangement and unanimously recommends that Unitholders vote in favour of the Arrangement Resolution at the Meeting.

As at the date hereof, the Trustees and officers of the REIT beneficially owned, directly or indirectly, or exercised control or direction over, an aggregate 2,044,725 REIT Units and 2,073,195 Exchangeable LP Units, representing approximately 3.34% of the total Units issued and outstanding. Each of the Trustees and officers has indicated to Management that they intend to vote all of the Units beneficially owned, directly or indirectly, or over which control or direction is exercised by them, in favour of the Arrangement Resolution to be considered at the Meeting. See "*The Arrangement – Interests of Certain Persons in the Arrangement*".

Amendment of the Plan and Factors Affecting Implementation of the Arrangement

The Arrangement Resolution provides the Trustees the discretion as to whether or not to proceed with the Arrangement notwithstanding that such transaction has been previously approved by Unitholders.

The Arrangement Resolution also provides the Trustees with the discretion to amend the Plan of Arrangement at any time up to the Effective Time. Amendments to the Plan of Arrangement must be made in accordance with the Interim Order. Amendments made prior to or at the Meeting must be approved by Unitholders and the Court, and amendments made following the Meeting must be approved by the Court. However, the Trustees will not exercise their discretion

to amend the Plan of Arrangement in the form set out at Appendix E to this Information Circular following approval by Unitholders at the Meeting if such amendment would result in Unitholders being treated in a manner that is materially different and adverse as compared to the treatment described in this Information Circular. Further, the ability of the Trustees to amend the Plan of Arrangement once it has been approved by the Unitholders is subject to the provisions of Article 9 of the Plan of Arrangement.

The Trustees currently believe that the following factors will be relevant in determining whether to exercise their discretion as to whether or not to amend the Plan of Arrangement or proceed with the Arrangement:

- a. the Interim Order not being set aside or modified in a manner unacceptable to the Trustees on appeal or otherwise;
- b. obtaining the Final Order in a form and on terms satisfactory to the Trustees and such order not being set aside or modified in a manner unacceptable to the Trustees on appeal or otherwise;
- c. there not having occurred any actual, proposed or threatened change or amendment to the Tax Act or to any prior proposal to amend the Tax Act or to the regulations thereunder or to any applicable provincial tax legislation or to the regulations thereunder or any administrative position or practice in relation thereto which, directly or indirectly, has or may have any material adverse significance with respect to the Arrangement including, without limitation, the tax treatment of Unitholders;
- d. obtaining any required regulatory approvals on terms and conditions satisfactory to the Trustees;
- e. obtaining approval of the TSX in connection with the Arrangement;
- f. obtaining all material third-party approvals and consents on terms and conditions satisfactory to the Trustees;
- g. the Advance Tax Ruling remaining in full force and effect on terms and conditions satisfactory to the Trustees and not having been withdrawn or modified in a manner unacceptable to the Trustees;
- h. there not having been enacted or pronounced any order or decree of any court, tribunal, governmental agency or other regulatory authority or administrative agency, board or commission, nor shall any law, regulation, policy, directive or order have been enacted, promulgated, made, issued or applied to cease trade, enjoin, prohibit or impose material limitations on the Arrangement or the transactions contemplated thereby in a manner unacceptable to the Trustees;
- i. none of the Unitholders, the REIT, or other Parties will be liable to pay any material income tax under the Tax Act or any provincial income tax legislation in respect of the Arrangement, other than the immaterial withholding tax payable by Unitholders that are Non-Residents in connection with the distribution of the Class A Shares by the REIT to Unitholders as a return of capital on the Units, which withholding tax will be paid by the REIT and remitted to the Receiver General for Canada;
- j. there not being any prohibition at law against the completion of the Arrangement; and
- k. the number of REIT Unitholders exercising their Arrangement Dissent Rights, if any, is reasonable as determined by the Trustees in their sole discretion.

Unitholders are cautioned that the foregoing list of factors is not exhaustive and there may be further or different factors and events that could cause the Trustees to exercise their discretion to amend the Plan of Arrangement or not proceed with the Arrangement.

General Description of the Arrangement

Following the Arrangement, KPI will be eliminated and will no longer be a part of the organizational structure of Killam. The REIT will instead hold its interest in Killam SLP through Killam MLP directly, rather than partially through KPI.

The Arrangement and the Related Transactions will not directly impact Unitholders' holdings in Killam. After the Arrangement and the Related Transactions are completed, Unitholders will hold the same number, type and percentage of outstanding Units as they held immediately before the Arrangement. Also, the total number of Units outstanding immediately following the Arrangement will be the same as before, and the REIT Units will continue to be listed on the TSX and retain the same CUSIP number.

The proposed Arrangement is an internal reorganization only. Completing the proposed Arrangement will not result in a change in Killam's strategy, portfolio or operations. Killam's strategy will remain consistent – drive value and profitability by focusing on three priorities: (1) increase earnings from the existing portfolio, (2) expand the portfolio and diversify geographically through accretive acquisitions, targeting newer properties and dispositions of non-core assets, and (3) develop high-quality properties in its core markets.

Pre-Arrangement Transactions

In connection with the Arrangement, Killam has effected, or will effect prior to the Meeting, the following transactions (collectively, the "**Pre-Arrangement Transactions**"):

Incorporation of Killam MFC

- (a) The REIT will incorporate a new corporation, Killam MFC, under the CBCA. The articles of Killam MFC will provide that Killam MFC's only undertaking will be activities described in paragraph 131(8)(b) of the Tax Act. The REIT is incorporating Killam MFC to qualify as a "mutual fund corporation" as defined in subsection 131(8) of the Tax Act.
- (b) The authorized share capital of Killam MFC will include an unlimited number of Killam MFC Common Shares, Class A Shares and Class B Shares. See "*Parties to the Arrangement – 16430929 Canada Inc. (Killam MFC) – Authorized Capital*".
- (c) On incorporation, the REIT will subscribe for 1 Killam MFC Common Share for \$0.01 and 99 Class A shares for \$0.01 per share for a total cash consideration of \$1.00.

Amendment of the Killam SLP Agreement

- (a) Pursuant to the provisions of Article 10 of the Killam SLP Agreement, Killam GP II, Killam MLP and KPI will amend the Killam SLP Agreement to modify certain provisions pertaining to the allocation of income and capital gains to the limited partners of Killam SLP.

Formation of New LP and KPI Contribution

- (a) KPI and Killam GP II will enter into a limited partnership agreement forming New LP pursuant to the *Partnerships Act* (Ontario).
- (b) New LP will be authorized to issue an unlimited number of New LP General Partner Units and an unlimited number of New LP Limited Partner Units. See "*Parties to the Arrangement – Killam Apartment Subsidiary 2024 Limited Partnership (New LP) – Authorized Capital*".
- (c) On formation, Killam GP II and KPI will each contribute \$1 to New LP in consideration for one New LP General Partner Unit and one New LP Limited Partner Unit, respectively.

- (d) KPI will contribute its Killam SLP Class A LP Units to New LP in consideration for: (i) the New LP Note with a principal amount equal to the adjusted cost base of KPI's interest in Killam SLP immediately before the transfer and (ii) additional New LP Limited Partner Units.

Interest Payment on the Killam REIT IB Note and the Killam MLP IB Note

- (a) Immediately prior to the Effective Date, KPI will settle any accrued interest outstanding pursuant to the terms of the Killam REIT IB Note and the Killam MLP IB Note.

Arrangement Transactions

At the Effective Time, each of the events described in the Plan of Arrangement will, except as otherwise expressly provided, be deemed to occur one minute apart and in the order set forth in the Plan of Arrangement. The following description of the Arrangement is a summary only and is qualified in its entirety by reference to the full text of the Plan of Arrangement attached as Appendix E to this Information Circular.

Amended and Restated Declaration of Trust Becomes Effective

- (a) The Amended and Restated Declaration of Trust as set forth in Schedule "A" of the Plan of Arrangement attached as Appendix E will become effective. See "*The Arrangement – Effect of the Arrangement on the Declaration of Trust*".

Exercise of Dissent Rights

- (a) The Dissenting Units held by Dissenting Unitholders will be deemed to have been transferred to the REIT (free of any claims) and cancelled and such Dissenting Unitholders will cease to have any rights as REIT Unitholders other than the right to be paid the fair value of their Dissenting Units in accordance with Article 6 of the Plan of Arrangement.

Contribution of the Killam REIT IB Note to Killam MLP and Partial Repayment of the Killam MLP IB Note and/or the Killam REIT IB Note

- (a) The REIT will transfer and contribute to Killam MLP as a partnership capital contribution (and not as a loan or an advance) the Killam REIT IB Note and Killam MLP will increase the capital account maintained for the REIT by the principal amount of the Killam REIT IB Note.
- (b) KPI will transfer the New LP Note to Killam MLP in full or partial repayment, as the case may be, of the principal amount owing pursuant to the terms of the Killam MLP IB Note and, if any excess amount under the New LP Note remains, in full or partial repayment, as the case may be, of the principal amount owing under the Killam REIT IB Note.

Killam MFC Share Subscription and Share Distribution

- (a) The REIT will subscribe for that number of Class A Shares equal to the number of issued and outstanding REIT Units held by Participating Unitholders immediately prior to the Effective Time (less the number of Class A shares issued and outstanding immediately prior to the Effective Time, being those Class A Shares issued on the incorporation of Killam MFC) in consideration for a cash payment of \$0.01 per Class A Share.
- (b) The REIT will distribute to the REIT Unitholders the Class A Shares that were issued on the incorporation of Killam MFC and the Class A Shares that were acquired in the subscription described in paragraph (a) above as a return of capital on the issued and outstanding REIT Units. Each REIT Unitholder will receive a number of Class A shares equal to the number of REIT Units held by such REIT Unitholder.

- (c) The REIT will immediately remit to the Receiver General for Canada, on behalf of each Participating Unitholder that is a Non-Resident, an amount equal to the amount required by the Tax Act to be withheld on behalf of the Participating Unitholder (taking into account the amount so remitted on behalf of that Unitholder) in respect of the return of capital, including amounts required to be withheld under subsection 218.3(2) of the Tax Act.

Transfer of KPI Shares, Killam REIT IB Note and Killam MLP IB Note by Killam MLP to Killam MFC for Class B Shares

- (a) Killam MLP will transfer (i) all of the issued and outstanding shares of KPI; (ii) the remaining principal amount of the Killam REIT IB Note; and (iii) the remaining principal amount, if any, of the Killam MLP IB Note to Killam MFC in consideration for the issuance of 100 Class B Shares with a fair market value and an aggregate redemption amount equal to the fair market value of the shares of KPI, the Killam REIT IB Note and the Killam MLP IB Note, so transferred.

Amalgamation of Killam MFC and KPI

- (a) Killam MFC and KPI will amalgamate to form Killam Amalco MFC on the terms set forth in Schedule “B” of the Plan of Arrangement attached as Appendix E.

Transfer of New LP Limited Partner Units to the REIT and Subordination of REIT Units to Special Units

- (a) At the Killam Amalco MFC Transfer Time, Killam Amalco MFC will transfer its (i) New LP Limited Partner Units and (ii) cash subscription proceeds received for the issuance of the Class A Shares to the REIT and, in exchange, the REIT will issue REIT Units and 100 Special Units, having an aggregate fair market value equal to the aggregate fair market value of the assets transferred to the REIT. The REIT Units issued will have an aggregate fair market value equal to the Class A Redemption Amount. The 100 Special Units will have an aggregate fair market value and redemption amount equal to the fair market value of the property transferred by Killam Amalco MFC to the REIT less the Class A Redemption Amount.
- (b) At the Killam Amalco MFC Transfer Time, all Participating Unitholders will be deemed to subordinate their entitlement to receive distributions from the REIT in respect of their REIT Units to the right of the holder of the Special Units to receive distributions (and redemption amounts) from the REIT in respect of such Special Units, such that Participating Unitholders will not receive any distributions from the REIT in respect of their REIT Units, until the earlier of the payment to the holder of Special Units equal to the Class B Redemption Amount or the time at which there are no Special Units issued and outstanding (which will occur pursuant to Section 3.1(n) of the Plan of Arrangement).

Redemption of Killam Amalco MFC Shares

- (a) Killam Amalco MFC will redeem all of the issued and outstanding Class A Shares held by Participating Unitholders in consideration for the payment of the Class A Redemption Amount, which will be satisfied by the transfer to the Participating Unitholders of their pro rata share of the REIT Units acquired by Killam Amalco MFC in paragraph (a) above.
- (b) Killam Amalco MFC will redeem all of the issued and outstanding Class B Shares held by Killam MLP in consideration of the payment of the Class B Redemption Amount, which will be satisfied through the transfer to Killam MLP of the 100 Special Units acquired by Killam Amalco MFC in paragraph (a) above.

Right of Renunciation Becomes Effective

- (a) Concurrently with the transfer of the 100 Special Units from Killam Amalco MFC to Killam MLP, the Right of Renunciation will become effective and Killam MLP will: (i) be deemed to have delivered a written notice of renunciation to the REIT, and (ii) surrender the Special Units acquired on the redemption of the Class B Shares for no consideration.
- (b) The REIT will cancel the Special Units, and the subordination of REIT Units by Participating Unitholders will terminate.

Consolidation of REIT Units

- (a) All outstanding REIT Units will be consolidated so that the number of REIT Units outstanding following such consolidation will be equal to the aggregate number of REIT Units outstanding immediately following the transfer of REIT Units held by Dissenting Unitholders to the REIT described above. No REIT Units will be cancelled or redeemed, and the Participating Unitholders will not receive, and will not be entitled to receive, any proceeds of disposition as a consequence of this consolidation.

Transfer of New LP Units

- (a) The REIT will transfer all of its New LP Limited Partner Units to Killam MLP as a partnership capital contribution (and not as a loan or advance) and Killam MLP will increase the capital account maintained for the REIT by the fair market value of such contribution.

If the Meeting is held as scheduled and is not adjourned and the necessary approvals are obtained, the REIT will apply for the Final Order approving the Arrangement on or about November 26, 2024. If the Final Order is obtained on about November 26, 2024 in form and substance satisfactory to the REIT, and all the necessary approvals are obtained, Killam expects the Effective Time to be on November 30, 2024.

The Arrangement will become effective on the date shown on the Certificate of Arrangement and upon the filing with the Director of the Articles of Arrangement and a copy of the Final Order, together with such other materials as may be required by the Director.

Post-Arrangement Transactions

Subsequent to the Effective Date and not pursuant to the Plan of Arrangement, Killam plans to effect the following transactions (collectively, the "**Post-Arrangement Transactions**"):

Liquidation of New LP

- (a) Killam MLP will contribute the New LP Note to New LP as a partnership capital contribution and as consideration for this transfer, New LP will increase the capital account maintained for Killam MLP.
- (b) Immediately after the transaction described in paragraph (a) above, New LP will be dissolved pursuant to the provisions of the *Partnerships Act* (Ontario).
- (c) All of the property of New LP, being the Killam SLP Class A LP Units, will be allocated, in the proportions set forth in the New LP partnership agreement, to the partners of New LP (Killam MLP and Killam GP II) immediately prior to New LP ceasing to exist, such that immediately thereafter each of the partners will own an undivided interest in each Killam SLP Class A LP Unit.
- (d) Killam GP II will sell its undivided interest in the Killam SLP Class A LP Units to Killam MLP for cash consideration equal to the fair market value thereof.

Liquidation of Killam Amalco MFC

- (a) The REIT will liquidate and dissolve Killam Amalco MFC under the relevant provisions of the CBCA.
- (b) The one common share of Killam Amalco MFC will be cancelled and the remaining property of Killam Amalco MFC will be distributed to the REIT on the winding up.

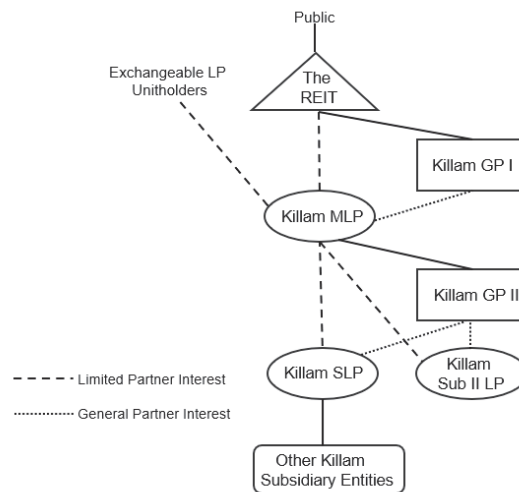
Tax Elections

In accordance with the Advance Tax Ruling and the Arrangement, the Parties will make certain tax elections within the times prescribed by law in respect of certain steps in the Plan of Arrangement and Related Transactions to implement the Arrangement and Related Transactions on a tax-deferred basis.

Structure Following Completion of the Arrangement

Following the implementation of the Arrangement and the Related Transactions, KPI, as well as the various entities formed or incorporated solely for the purpose of effecting the Arrangement, being New LP and Killam Amalco MFC will be eliminated from Killam's organizational structure and the REIT will hold its entire investment directly through Killam MLP.

The following diagram illustrates the structure of the REIT upon completion of the Arrangement and following the Post-Arrangement Transactions.



Effects of the Arrangement

Following the Arrangement, KPI will be eliminated and will no longer be a part of the organizational structure of Killam. The REIT will instead hold its entire interest in Killam SLP through Killam MLP directly, rather than partially through KPI.

The Arrangement and the Related Transactions will not directly impact Unitholders' holdings in Killam. After the Arrangement and the Related Transactions are completed, Unitholders will hold the same number, type and percentage of outstanding Units as they held immediately before the Arrangement. Also, the total number of Units outstanding immediately following the Arrangement will be the same as before, and the REIT Units will continue to be listed on the TSX and retain the same CUSIP number. There will be no change to the distribution policy of Killam in connection with the Arrangement. Killam has applied for and received the Advance Tax Ruling from the CRA in connection with

the Arrangement. Based on the Advance Tax Ruling, Killam believes that the Arrangement will not result in any material income taxes to the Participating Unitholders, REIT and the REIT subsidiaries.

In order to complete the Arrangement, a number of steps will be taken, including steps that will result in Unitholders holding shares of Killam MFC, a newly-created mutual fund corporation, and Killam Amalco MFC, the corporation resulting from the amalgamation of Killam MFC and KPI, as well as additional REIT Units, in each case for a brief period of time. While these steps are complex, they are necessary in order to implement the Arrangement will not result in any material income taxes to the Participating Unitholders, REIT and the REIT subsidiaries. The Arrangement will not affect a Participating Unitholder's status as a Unitholder or the number of Units held once the Arrangement is completed.

Effect of the Arrangement on the RTU Plan

Trustees, officers and employees of Killam are eligible to participate in the RTU Plan. The RTU Plan, and the number Units issuable or amount of cash payable, as applicable, thereunder, will not be affected by the Arrangement.

Effect of the Arrangement on the Declaration of Trust

Unitholders who vote in favour of the Arrangement Resolution will be authorizing and approving the adoption of the Amended and Restated Declaration of Trust, which includes amendments to the Declaration of Trust in connection with, and necessary to effect, the Arrangement and other amendments of a minor, housekeeping or clerical nature that are necessary or desirable and not prejudicial to the Unitholders. The Amended and Restated Declaration of Trust includes provisions:

- allowing the REIT to make distributions *in specie*, including in the securities of the Subsidiary of the REIT;
- creating the Special Units of the REIT;
- granting each Special Unitholder that is a Subsidiary of the REIT the right to renounce, release and surrender, for no consideration, all rights and benefits in and to the Special Units of the REIT held by such Subsidiary as specified in a delivered written notice of renunciation;
- correcting an inadvertent error in the definition of "special resolution" to correct the quorum requirement from 10% to 25%, which is consistent with the general quorum requirements in the Declaration of Trust and good governance practices; and
- relating to other housekeeping amendments to the Declaration of Trust.

The full text of the proposed Amended and Restated Declaration of Trust is set forth in Schedule "A" of the Plan of Arrangement attached as Appendix E. A blackline showing the proposed amendments to the Declaration of Trust to be adopted in the Amended and Restated Declaration of Trust is included as Appendix F.

Procedure for the Arrangement Becoming Effective

The Arrangement is proposed to be carried out pursuant to Section 192 of the CBCA. The following procedural steps must be taken for the Arrangement to become effective:

- (a) the Arrangement must be approved by the Unitholders at the Meeting as described herein;
- (b) the Arrangement must be approved by the Court pursuant to the Final Order;
- (c) the Trustees must have determined to proceed with the Arrangement;

- (d) the Articles of Arrangement and related documents in the form prescribed by the CBCA, together with a copy of the Final Order and Plan of Arrangement must be filed with the Director; and
- (e) the Certificate of Arrangement must be issued by the Director.

Approvals Required for the Arrangement

Unitholder Approval

The Meeting will be held on November 21, 2024 at 10:00 a.m. (Atlantic time) at the Halifax Marriott Harbourfront Hotel, 1919 Upper Water Street, Halifax, NS, B3J 3J5. At the Meeting, Unitholders will be asked to consider, and if thought advisable, pass the Arrangement Resolution in the form attached hereto as Appendix A, with or without variation. The Interim Order provides that, for the Arrangement to be implemented, the Arrangement Resolution must be passed, with or without variation, by 66⅔% of all the votes cast by REIT Unitholders and Special Voting Unitholders, voting together as a single, class either in person or by proxy at the Meeting, in accordance with the terms of the Declaration of Trust and the Interim Order.

Each Unitholder shall have the right to one vote for each Unit held by such Unitholder. Special Voting Units are associated with the Exchangeable LP Units of Killam MLP, which is controlled by the REIT. The Exchangeable LP Units are intended to be economically equivalent to and exchangeable for REIT Units on a one-for-one basis and are accompanied by Special Voting Units of the REIT that provide their holders with equivalent voting rights to holders of REIT Units.

As at the date hereof, the Trustees and officers of the REIT beneficially owned, directly or indirectly, or exercised control or direction over, an aggregate 2,044,725 REIT Units and 2,073,195 Exchangeable LP Units, representing approximately 3.34% of the total Units issued and outstanding. Each of the Trustees and officers has indicated to Management that they intend to vote all of the Units beneficially owned, directly or indirectly, or over which control or direction is exercised by them, in favour of the Arrangement Resolution to be considered at the Meeting. See "*The Arrangement – Interests of Certain Persons in the Arrangement*".

Court Approval

An arrangement under the CBCA requires Court approval. Prior to the mailing of this Information Circular, the REIT obtained the Interim Order, which provides for the calling and holding of the Meeting, and other procedural matters. A copy of the Interim Order is attached Appendix B.

Subject to approval of the Arrangement Resolution by Unitholders at the Meeting, the hearing in respect of the Final Order is currently scheduled to take place via videoconference on November 26, 2024 at 11:00 a.m. (Eastern time) or as soon thereafter as is reasonably practicable. Any Unitholder or other person who wishes to appear, or to be represented, and to present evidence or arguments at that hearing may do so, subject to filing with the Court and serving on the counsel of the REIT, Bennett Jones LLP, at 3400 One First Canadian Place, P.O. Box 130, Toronto, Ontario, M5X 1A4, Attention: Joseph N. Blinick and William A. Bortolin no less than four days before the application in respect of the Final Order, a notice of intention to appear as set out in the notice of petition for the Final Order and satisfying any other requirements of the Court. The Notice of Application for the Final Order accompanies this Information Circular as Appendix C. At the application for the Final Order the Court will be requested to consider the fairness of the Arrangement.

The Court may approve the Plan of Arrangement in any manner the Court may direct, subject to compliance with any terms and conditions, if any, as the Court deems fit. Prior to the hearing on the Final Order, the Court will be informed that the Final Order will also constitute the basis for an exemption from registration under the U.S. Securities Act for the securities to be issued under the Plan of Arrangement pursuant to Section 3(a)(10) of the U.S. Securities Act. In the event that the hearing is postponed, adjourned or rescheduled then, subject to further order of the Court, only those persons having previously served a Notice of Appearance in compliance with the application and the Interim Order will be given notice of the postponement, adjournment or rescheduled date.

The Court has broad discretion under the CBCA when making orders with respect to an arrangement and the Court will consider, among other things, the fairness of the Arrangement to the Unitholders (and any other party as the Court determines appropriate). The Court may approve the Arrangement, either as proposed or as amended, in any manner the Court may direct. However, the Trustees may determine to exercise their discretion as to whether or not to proceed with the Arrangement if the REIT does not obtain the Final Order in a form and on terms satisfactory to the Trustees.

Regulatory Approvals

Advance Tax Ruling

On October 25, 2023, the REIT initially requested the Advance Tax Ruling from the CRA with respect to the Arrangement. On October 11, 2024, the REIT received the Advance Tax Ruling, which confirms the material income tax consequences of the Arrangement. In particular, subject to the assumptions and qualifications therein and provided that certain prescribed tax elections are filed in accordance with the Tax Act, the Advance Tax Ruling confirms that the transactions comprising the Arrangement should not result in any material Canadian federal income tax consequences to the REIT, the REIT subsidiaries and the REIT Unitholders, including that (i) REIT will not be considered to have disposed of its property and resettled a new trust for the purposes of the Tax Act by virtue of the amendments to the Amended and Restated Declaration of Trust as described under "*The Arrangement – General Description of the Arrangement – Arrangement Transactions – Amended and Restated Declaration of Trust Becomes Effective*", (ii) the transfer by Killam MLP of the KPI Shares, the Killam REIT IB Note and the Killam MLP IB Note to Killam MFC for Class B Shares should qualify as a tax-deferred transfer under section 85 of the Tax Act, as described under "*The Arrangement – General Description of the Arrangement – Arrangement Transactions – Transfer of KPI shares, Killam REIT IB Note and Killam MLP IB Note by Killam MLP to Killam MFC for Class B Shares*", (iii) the transfer by Killam Amalco MFC of the New LP Limited Partner Units and cash to REIT for REIT Units and Special Units and the redemption of the Class A Shares and the Class B Shares, as the case may be, in consideration for the REIT Units and Special Units, respectively, together with the renunciation of the Special Units should qualify for tax-deferred treatment under section 132.2 of the Tax Act, as described under "*The Arrangement – General Description of the Arrangement – Arrangement Transactions – Transfer of New LP Limited Partner Units to the REIT and Subordination of REIT Units to Special Units, Redemption of Killam Amalco MFC Shares, Right of Renunciation Becomes Effective*", (iv) the consolidation of the REIT Units will not result in a disposition of such REIT Units under the Tax Act as described under "*The Arrangement – General Description of the Arrangement – Arrangement Transactions – Consolidation of REIT Units*", (v) the transfer by REIT of the New LP Limited Partner Units to Killam MLP should qualify for tax deferred treatment under section 97 of the Tax Act, as described under "*The Arrangement – General Description of the Arrangement – Arrangement Transactions – Transfer of New LP Units*", and (vi) the general anti-avoidance rule in section 245 of the Tax Act should not apply to redetermine the tax consequences of the Arrangement.

TSX Approval

The TSX has conditionally approved the Arrangement. If the TSX does not approve the Arrangement on terms and conditions satisfactory to the REIT or at all, the Trustees may decide not to proceed with the Arrangement or may amend or modify the structure of the Arrangement.

Third-Party Approvals

Certain of the transactions contemplated by the Arrangement may require the consent of certain third-parties. Prior to the Effective Date, the REIT or KPI will send notices to and request the consent of these third-parties with respect to the Arrangement. However, there can be no assurance that the necessary consents from these third-parties will be obtained on a timely basis or on terms and conditions satisfactory to the REIT or KPI. If these consents are not obtained, the Trustees may decide not to proceed with the Arrangement or to amend or modify the structure of the Arrangement.

Interests of Certain Persons in the Arrangement

As at the date hereof, the Trustees and officers of the REIT beneficially owned, directly or indirectly, or exercised control or direction over, an aggregate 2,044,725 REIT Units and 2,073,195 Exchangeable LP Units, representing approximately 3.34% of the total Units issued and outstanding. Each of the Trustees and officers has indicated to Management that they intend to vote all of the Units beneficially owned, directly or indirectly, or over which control or direction is exercised by them, in favour of the Arrangement Resolution to be considered at the Meeting.

Securities Law Matters

The securities to be issued under the Arrangement will be issued in reliance on exemptions from prospectus and registration requirements of applicable Canadian securities laws and, following completion of the Arrangement, the Units will remain "freely tradeable" (other than as a result of any "control block" restrictions which may arise by virtue of the ownership thereof) under applicable Canadian securities laws of the provinces and territories of Canada. The Exchangeable LP Units are not transferable without the consent of the Killam GP I, are not listed on a stock exchange in Canada, and Killam MLP does not currently intend to seek a listing for the Exchangeable LP Units on a stock exchange in Canada.

Dissent Rights

Section 190 of the CBCA provides shareholders with the right to dissent from certain resolutions of a corporation involving the amendment of its articles or where provided by a court order. The full text of section 190 of the CBCA is attached to this Information Circular as Appendix D. The Interim Order expressly provides registered REIT Unitholders as at the Record Date with the right to dissent from the Arrangement Resolution in accordance with section 190 of the CBCA except as that section is modified by the Interim Order and the Plan of Arrangement. Any REIT Unitholder who dissents from the Arrangement in compliance with the Interim Order and section 190 of the CBCA, except as that section is modified by the Interim Order and the Plan of Arrangement, will be entitled, in the event the Arrangement becomes effective, to be paid by the REIT the fair value of the REIT Units held by such Dissenting Unitholder determined as of the close of business on the day before the Arrangement Resolution is approved by the Unitholders. A REIT Unitholder who intends to exercise their Arrangement Dissent Rights should carefully consider and comply with the provisions of section 190 of the CBCA, as modified by the Interim Order. Failure to comply with the provisions of section 190 of the CBCA, as modified by the Interim Order, and to adhere to the procedures established therein may result in the loss of all rights thereunder.

The Court hearing the application for the Final Order has the discretion to alter the rights of dissent described herein based on the evidence presented at such hearing.

Under the Interim Order, a registered REIT Unitholder as at the Record Date is entitled, in addition to any other rights they may have, to dissent and to be paid by the REIT the fair value of the REIT Units held by them in respect of which they dissent, determined as of the close of business on the day before the Arrangement Resolution is approved by the Unitholders. A REIT Unitholder may dissent only with respect to all of the REIT Units held by them or on behalf of any one beneficial owner and registered in the Dissenting Unitholder's name. **Persons who are beneficial owners of REIT Units registered in the name of a broker, custodian, nominee or other intermediary who wish to dissent, should be aware that only the registered owner of such securities is entitled to dissent. Accordingly, a beneficial owner of REIT Units desiring to exercise their right of dissent must make arrangements for the REIT Units beneficially owned by them to be registered in their name prior to the time the written objection to the Arrangement Resolution is required to be received by the REIT or, alternatively, make arrangements for the registered holder of their REIT Units to dissent on their behalf.**

A registered REIT Unitholder who wishes to dissent in respect of their REIT Units must provide written notice of dissent by ordinary or registered mail, or by delivery by hand, to the REIT, Attention: Dale Noseworthy, at the head office of Killam at 3700 Kempt Road, Halifax, Nova Scotia, B3K 4X8, which notice must be received by the REIT at or before 5:00 p.m. (Atlantic time) on November 19, 2024. IT IS IMPORTANT THAT REIT UNITHOLDERS STRICTLY COMPLY WITH THIS REQUIREMENT, WHICH IS DIFFERENT FROM THE STATUTORY DISSENT PROVISIONS OF SECTION 190 OF THE CBCA AND WHICH WOULD

PERMIT A DISSENT NOTICE TO BE DELIVERED TO THE REGISTERED OFFICE OF THE REIT AT OR PRIOR TO THE MEETING.

The providing of a dissent notice does not deprive a registered REIT Unitholder of the right to vote at the Meeting; however, no REIT Unitholder who has voted in favour of the Arrangement shall be entitled to dissent with respect to the Arrangement. A vote against the Arrangement or an abstention DOES NOT constitute a dissent notice. Similarly, the revocation of a proxy conferring authority on the proxy holder to vote against the Arrangement does not constitute a dissent notice; however, any proxy granted by a REIT Unitholder who intends to dissent, other than a proxy that instructs the proxy holder to vote against the Arrangement, should be validly revoked in order to prevent the proxy holder from voting such REIT Units in favor of the Arrangement and thereby cause the REIT Unitholder to forfeit their right to dissent.

The REIT is required, within 10 days after the Unitholders approve the Arrangement Resolution, to notify each Dissenting Unitholder that the Arrangement has been adopted. Such notice is not required to be sent to any REIT Unitholder who voted for the Arrangement or who has withdrawn their dissent notice.

A Dissenting Unitholder who has not withdrawn his or her dissent notice must then, within 20 days after receipt of notice that the Arrangement Resolution has been adopted or, if the Dissenting Unitholder does not receive such notice, within 20 days after he, she or it learns that the Arrangement Resolution has been adopted, send to Killam a written notice containing their name and address, the number of REIT Units in respect of which they dissent, and a demand for payment of the fair value of such REIT Units. Within 30 days after sending a demand for payment, the Dissenting Unitholder must send to the REIT the certificates representing the REIT Units in respect of which they dissent. A Dissenting Unitholder who fails to send all certificates representing the REIT Units in respect of which they dissent forfeits their right to dissent.

The REIT is required, not later than 7 days after the later of the Effective Date of the Arrangement and the date on which the demand for payment from a Dissenting Unitholder is received, to send to each Dissenting Unitholder who has sent a demand for payment, an offer to pay for his, her or its REIT Units in an amount considered by Trustees to be the fair value thereof, accompanied by a statement showing the manner in which the fair value was determined. Every offer to pay must be made on the same terms. The REIT must pay for the REIT Units of a Dissenting Unitholder within 10 days after an offer to pay has been accepted by a Dissenting Unitholder, but any such offer lapses if the REIT does not receive an acceptance thereof within 30 days after the offer to pay has been made.

If the REIT fails to make an offer to pay for Dissenting Units, or if a Dissenting Unitholder fails to accept an offer which has been made, the REIT may, within 50 days after the Effective Date of the Arrangement or within such further period as the Court may allow, apply to the Court to fix a fair value for the REIT Units of Dissenting Unitholders. If the REIT fails to apply to the Court, a Dissenting Unitholder may apply to the Court for the same purpose within a further period of 20 days or within such further period as the Court may allow. An application to fix a fair value for the REIT Units of Dissenting Unitholders will be made to a court having jurisdiction where the REIT has its registered office or in the province where the Dissenting Unitholder resides if the REIT carries on business in that province.

A Dissenting Unitholder may make an agreement with the REIT for the purchase of his, her or its REIT Units, in the amount of the offer or otherwise, at any time before the Court pronounces an order fixing the fair value of the REIT Units.

A Dissenting Unitholder is not required to give security for costs in respect of an application and, except in special circumstances, will not be required to pay the costs of the application and appraisal. On the application, the Court will make an order under subsection 190(22) of the CBCA fixing the fair value of the REIT Units of all Dissenting Unitholders who are parties to the application, giving judgment in that amount against the REIT and in favour of each of those Dissenting Unitholders, and fixing the time within which the REIT must pay that amount to the Dissenting Unitholders. The Court may in its discretion allow a reasonable rate of interest on the amount payable to each Dissenting Unitholder calculated from the date on which the Dissenting Unitholder ceases to have any rights as a REIT Unitholder until the date of payment.

As part of the Arrangement, the REIT Units held by Dissenting Unitholders will be cancelled prior to the Arrangement and each such Dissenting Unitholder will cease to have any rights as a REIT Unitholder other than the right to be paid

the fair value of his, her or its REIT Units in the amount agreed to between the REIT and the Dissenting Unitholder or in the amount of the judgment, as the case may be. Until this occurs, the REIT Unitholder may withdraw his dissent, or the REIT may rescind the Arrangement Resolution, and in either event the dissent and appraisal proceedings in respect of that REIT Unitholder will be discontinued.

The REIT shall not make a payment to a Dissenting Unitholder under section 190 of the CBCA if there are reasonable grounds for believing that it is or would after the payment be unable to pay its liabilities as they become due, or the realizable value of its assets would by reason of the payment be less than the aggregate of its liabilities. In such event, the REIT shall, within 10 days after the pronouncement of the order under subsection 190(15) of the CBCA, or the making of an agreement with a Dissenting Unitholder as to the payment to be made for such Dissenting Unitholder's REIT Units, notify each Dissenting Unitholder that it is unable lawfully to pay Dissenting Unitholders for their REIT Units. In such event, each Dissenting Unitholder may, by written notice delivered to the REIT within 30 days after receipt of such notice, withdraw his, her or its written objection, in which case such REIT Unitholder shall, in accordance with the Interim Order, be deemed to have participated in the Arrangement as a Participating Unitholder. If the Dissenting Unitholder does not withdraw their written objection they retain their status as a claimant against the REIT to be paid as soon as the REIT is lawfully entitled to do so or, in a liquidation, to be ranked subordinate to creditors but prior to holders of then-outstanding REIT Units.

All REIT Units held by Dissenting Unitholders will, if such Dissenting Unitholders are ultimately entitled to be paid the fair value thereof, be deemed to be transferred to the REIT in exchange for payment of such fair value. If such REIT Unitholders ultimately are not entitled to exercise their Arrangement Dissent Rights, such REIT Unitholders will be deemed to have participated in the Arrangement on the same basis as Participating Unitholders.

The foregoing is only a summary of the dissenting shareholder provisions of the CBCA, the Interim Order and the Plan of Arrangement, which are technical and complex. The Interim Order is attached to this Information Circular as Appendix B. A complete copy of section 190 of the CBCA is attached to this Information Circular as Appendix D. The Plan of Arrangement is attached to this Information Circular as Appendix E. It is recommended that any REIT Unitholder wishing to avail himself, herself or itself of Arrangement Dissent Rights under those provisions seek legal advice, as failure to comply strictly with the provisions of the CBCA, the Interim Order and the Plan of Arrangement may prejudice, or result in a loss of, the right of dissent.

PARTIES TO THE ARRANGEMENT

The parties described below are involved in the Arrangement, some of which have been incorporated, formed or amalgamated in connection with or as result of the Arrangement and/or will be liquidated or dissolved following the Arrangement.

Killam Apartment Real Estate Investment Trust (the REIT)

Killam Apartment Real Estate Investment Trust is an open-ended real estate investment trust formed under the laws of the Province of Ontario pursuant to the Declaration of Trust, which is available on SEDAR+ at www.sedarplus.ca. The REIT, based in Halifax, Nova Scotia, is one of Canada's largest residential real estate investment trusts, owning, operating, managing and developing a \$5.3 billion portfolio of apartments and manufactured home communities. Killam's strategy to drive value and profitability focuses on three priorities: (1) increase earnings from the existing portfolio, (2) expand the portfolio and diversify geographically through accretive acquisitions, targeting newer properties and dispositions of non-core assets, and (3) develop high-quality properties in its core markets.

The head and registered office of the REIT is located at 3700 Kempt Road, Suite 100, Halifax, Nova Scotia, B3K 4X8. Although Killam qualifies as a "mutual fund trust" under the Tax Act. Killam is not a "mutual fund" as defined by applicable securities legislation. The REIT Units are listed for trading on the TSX under the symbol: "KMP.UN".

Effective January 1, 2016, KPI completed a plan of arrangement (the "**KPI Arrangement**") to convert to a REIT, known as Killam Apartment Real Estate Investment Trust. Under the KPI Arrangement, each outstanding common share of KPI was exchanged for one REIT Unit unless a qualifying shareholder elected to receive Exchangeable LP

Units, in exchange for their common shares. For information on Killam, see the REIT's annual information form for the year ended December 31, 2023.

Killam Properties Inc. (KPI)

KPI is a corporation amalgamated under the CBCA, a wholly owned subsidiary of Killam MLP and a limited partner of Killam SLP. KPI holds all of the issued and outstanding Killam SLP Class A LP Units. KPI was incorporated under the CBCA on May 26, 2000. On October 25, 2000, KPI filed Articles of Amendment to remove the private company restrictions previously applicable to KPI. KPI was the predecessor entity to the REIT, and became a wholly-owned subsidiary of the REIT as the result of the KPI Arrangement. The registered office of KPI is located at 2571 Windsor Street, Halifax, Nova Scotia, B3K 5C4.

Killam Apartment General Partner Ltd. (Killam GP I)

Killam GP I is a corporation formed under the OBCA. Killam GP I is the general partner of Killam MLP and a wholly-owned subsidiary of the REIT. The registered and head office of Killam GP I is located at 100 King Street West, Suite 3400, 1 First Canadian Place, Toronto, Ontario, M5X 1A4, Canada, B3K 4X8.

Killam Properties SGP Ltd. (Killam GP II)

Killam GP II is a corporation formed under the OBCA. Killam GP II is the general partner of Killam SLP and Killam Apartment Subsidiary II Limited Partnership ("**Killam Sub II LP**") and a wholly-owned subsidiary of Killam MLP.

The registered and head office of Killam GP II is located at 100 King Street West, Suite 3400, 1 First Canadian Place, Toronto, Ontario, M5X 1A4, Canada, B3K 4X8.

Killam Apartment Limited Partnership (Killam MLP)

Killam MLP is a limited partnership that was formed under the laws of the Province of Ontario to hold, indirectly, interests in various Canadian real property assets. The REIT and the Exchangeable LP Unitholders are the only limited partners of Killam MLP. The REIT holds Class A LP Units and the Exchangeable LP Unitholders hold Exchangeable LP Units. Killam GP I is Killam MLP's general partner. Killam MLP is a limited partner of Killam SLP and Killam Sub II LP. The principal place of business of Killam MLP is 100 King Street West, Suite 3400, 1 First Canadian Place, Toronto, Ontario, M5X 1A4.

Authorized Capital

Killam MLP is authorized to issue an unlimited number of Killam MLP Class A GP Units, Killam MLP Class A LP Units and Exchangeable LP Units. The terms of each class of units are as follows:

- (a) Holders of Killam MLP Class A GP Units are entitled to a vote for each Killam MLP Class A GP Unit held in respect of all matters to be decided by the holders of Killam MLP Class A GP Units and entitled to a nominal participation in the income and distributions of Killam MLP. Holders of Killam MLP Class A GP Units have a right to receive nominal property of Killam MLP pursuant to a liquidation, dissolution or winding up of Killam MLP.
- (b) Holders of Killam MLP Class A LP Units are entitled to a vote for each Killam MLP Class A LP Unit held in respect of matters to be decided by the limited partners of Killam MLP. The Killam MLP Class A LP Units participate in distributions and net income of Killam MLP. Holders of Killam MLP Class A LP Units have a right to receive property of Killam MLP pursuant to a liquidation, dissolution or winding up of Killam MLP.
- (c) Exchangeable LP Units are non-voting with respect to Killam MLP; however, Special Voting Units are issued in connection with the Exchangeable LP Units and entitle the holder thereof to one vote per Special Voting Unit at any meeting of the Unitholders of the REIT. The Exchangeable LP Units

participate in distributions and net income of Killam MLP. Exchangeable LP Unitholders have a right to receive property of Killam MLP pursuant to a liquidation, dissolution or winding up of Killam MLP. Pursuant to the terms of the Killam MLP Agreement and Exchange and Support Agreement (i) the Exchangeable LP Unitholders have the right to exchange Exchangeable LP Units for REIT Units based upon an established exchange ratio and (ii) Killam MLP may retract the Exchangeable LP Units in certain circumstances. The Exchangeable LP Units are not transferable except on an exchange for REIT Units or where Killam GP I otherwise consents to the transfer in writing.

Killam Apartment Subsidiary Limited Partnership (Killam SLP)

Killam SLP is a limited partnership that was formed under the laws of the province of Ontario to acquire Canadian real property assets, directly or indirectly. Killam MLP and KPI are limited partners of Killam SLP and Killam GP II is Killam SLP's general partner. Killam SLP holds i) beneficial ownership of Canadian real property; ii) an interest in Killam Properties Apartments Trust and Killam Properties M.H.C. Trust, which each own Canadian real property assets, and iii) shares of nominee corporations which hold legal title to real properties. The principal place of business of Killam SLP is 100 King Street West, Suite 3400, 1 First Canadian Place, Toronto, Ontario, M5X 1A4.

Authorized Capital

Killam SLP is authorized to issue an unlimited number of Killam SLP Class A GP Units, Killam SLP Class A LP Units, Killam SLP Class B LP Units and Killam SLP Class C LP Units. The terms of each class of Killam SLP units are as follows:

- (a) Holders of Killam SLP Class A GP Units are entitled to one vote for each Killam SLP Class A GP Unit held in respect of all matters to be decided by the holders of Killam SLP Class A GP Units and are entitled to a nominal participation in the income and distributions of Killam SLP. On a liquidation, dissolution or winding up of Killam SLP, the Killam SLP Class A GP Units will have the right to receive property of Killam SLP, subject to the Killam SLP Class A LP Units and Killam SLP Class B LP Units preferences;
- (b) Killam SLP Class A LP Units are non-voting limited partner units. Holders of Killam SLP Class A LP Units are entitled to participate in income and distributions in an amount equal to (but not exceeding) the Sub LP Class A LP Unit Distribution as defined in the Killam SLP Agreement. Holders of Killam SLP Class A LP Units rank in preference to holders of Killam SLP Class C LP Units with respect to the Sub LP Class A LP Unit Distribution and any distribution arising on a liquidation, dissolution or winding up of Killam SLP. The Killam SLP Class A LP Units rank *pari passu* with the Killam SLP Class B LP Units with respect to these matters. Each Killam SLP Class A LP Unit may be surrendered for cancellation at the option of the Killam SLP Class A LP Unitholder in consideration for a payment equal to the applicable Sub LP Class A LP Unit Redemption Amount (as defined in the Killam SLP Agreement);
- (c) Killam SLP Class B LP Units are non-voting limited partner units. Holders of Killam SLP Class B LP Units are entitled to participate in distributions in an amount equal to (but not exceeding) the Sub LP Class B LP Unit Distribution (as defined in the Killam SLP Agreement). On a liquidation, dissolution or winding up of Killam SLP, each Killam SLP Class B LP Unit has a right to receive property of Killam SLP equal to (but not exceeding) the Sub LP Class B LP Unit Redemption Amount (as defined in the Sub LP Agreement). Killam SLP Class B LP Units rank in preference to Killam SLP Class C LP Units with respect to the Killam SLP Class B LP Unit distribution and a distribution arising on a liquidation, dissolution or winding up of Killam SLP. Killam SLP Class B LP Units rank *pari passu* with the Killam SLP Class A LP Units with respect to these matters. Each Killam SLP Class B LP Unit may be surrendered for cancellation at the option of the Killam SLP Class B LP Unitholder in consideration for a payment equal to the applicable Sub LP Class B LP Unit Redemption Amount (as defined in the Killam SLP Agreement); and

- (d) Killam SLP Class C LP Units are entitled to one vote for each Killam SLP Class C LP Unit held in respect of matters to be decided by the limited partners of Killam SLP and entitled to participate in partnership distributions as described in the Killam SLP Agreement, subject to the Killam SLP Class A LP Unit and Killam SLP Class B LP Unit distribution preference. On a liquidation, dissolution or winding up of Killam SLP, the Killam SLP Class C LP Units will have the right to receive property of Killam SLP, subject to the Killam SLP Class A LP Unit and Killam SLP Class B LP Unit preferences.

16430929 Canada Inc. (Killam MFC)

Killam MFC was incorporated under the CBCA on October 9, 2024, solely for the purposes of facilitating the transactions contemplated by the Arrangement. Killam MFC's registered office is located at 100 King Street West, Suite 3400, 1 First Canadian Place, Toronto, Ontario, M5X 1A4.

The articles of Killam MFC will provide that Killam MFC's only undertaking will be activities described in paragraph 131(8)(b) of the Tax Act. The REIT is incorporating Killam MFC to qualify as a "mutual fund corporation" as defined in subsection 131(8) of the Tax Act.

Authorized Capital

The authorized share capital of Killam MFC includes an unlimited number of Killam MFC Common Shares, Class A Shares and Class B Shares.

- (a) The Killam MFC Common Shares, subject to the provisions of the CBCA:
 - (i) entitle the holder to one vote in respect of each Killam MFC Common Share held on all matters to be voted on at all meetings of shareholders;
 - (ii) entitle the holder thereof to receive dividends if, as and when declared by the board of directors of Killam MFC, to the exclusion of holders of Class A Shares or Class B Shares; and
 - (iii) on the liquidation, dissolution or winding-up of Killam MFC, subject to the rights of the holders of any other class of shares of Killam MFC entitled to receive assets of Killam MFC upon such a distribution in priority to or rateably with the holders of the Killam MFC Common Shares, entitle the holder thereof to share rateably in any remaining assets of Killam MFC.
- (b) The Class A Shares, subject to the CBCA:
 - (i) are non-voting;
 - (ii) entitle the holder thereof to receive dividends if, as and when declared by the board of directors of Killam MFC, to the exclusion of holders of Killam MFC Common Shares or Class B Shares;
 - (iii) be redeemable at the option of Killam MFC and be retractable at the option of the holder at the Class A Redemption Amount, payable in cash or REIT Units;
 - (iv) on the liquidation, dissolution or winding-up of Killam MFC, entitle the holder thereof to receive the Class A Redemption Amount *pari passu* with the holders of Class B Shares before any amount will be paid or any assets of Killam MFC will be distributed to the holders of Killam MFC Common Shares, or any shares ranking junior to the Killam MFC Common Shares

- (c) The Class B Shares, subject to the CBCA:
 - (i) are non-voting;
 - (ii) entitle the holder thereof to receive dividends if, as and when declared by the board of directors of Killam MFC, to the exclusion of holders of Killam MFC Common Shares or Class A Shares;
 - (iii) be redeemable at the option of Killam MFC and be retractable at the option of the holder at the Class B Redemption Amount, payable in cash or Special Units;
 - (iv) on the liquidation, dissolution or winding-up of Killam MFC, entitle the holder thereof to receive the Class B Redemption Amount *pari passu* with the holders of Class A Shares before any amount will be paid or any assets of Killam MFC will be distributed to the holders of Killam MFC Common Shares, or any shares ranking junior to the Killam MFC Common Shares.

Killam Apartment Subsidiary 2024 Limited Partnership (New LP)

General

New LP was formed pursuant to the *Partnerships Act* (Ontario) on October 10, 2024, solely for the purposes of facilitating the transactions contemplated by the Arrangement. The principal place of business of New LP is 100 King Street West, Suite 3400, 1 First Canadian Place, Toronto, Ontario, M5X 1A4.

Authorized Capital

- (a) New LP will be authorized to issue an unlimited number of New LP General Partner Units and an unlimited number of New LP Limited Partner Units. The terms of each class of units will be as follows:
 - (i) Holders of New LP General Partner Units will be entitled to one vote for each New LP General Partner Unit held in respect of all matters to be decided by the holders of New LP General Partner Units and will be entitled to a fixed, nominal participation in the income and distributions of New LP. Pursuant to a liquidation, dissolution or winding up of New LP, holders of New LP General Partner Units will have a right to receive a share of the residual property of New LP based on the number of New LP Units held by such partner; and
 - (ii) Holders of New LP Limited Partner Units will be entitled to one vote for each New LP Limited Partner Unit held in respect of matters to be decided by the limited partners of New LP. The New LP Limited Partner Units will participate in distributions and net income of New LP pro-rata, based on the number of New LP Limited Partner Units held by such partner. Pursuant to a liquidation, dissolution or winding-up of New LP, holders of New LP Limited Partner Units will have a right to receive a share of the residual property of New LP based on the number of New LP Units held by such partner.

Killam Properties Inc., following the amalgamation of KPI and Killam MFC (Killam Amalco MFC)

As a step in the Arrangement, KPI and Killam MFC will amalgamate under the CBCA to form Killam Amalco MFC. Killam Amalco MFC's registered office will be at 2571 Windsor Street, Halifax, Nova Scotia, B3K 5C4.

The articles of Killam Amalco MFC will provide that Killam Amalco MFC's only undertaking will be activities described in paragraph 131(8)(b) of the Tax Act. The amalgamation of Killam MFC and KPI will occur on the terms set out in Schedule B of the Plan of Arrangement, attached to this Information Circular as Appendix E.

CERTAIN CANADIAN FEDERAL INCOME TAX CONSIDERATIONS

The following summary generally describes, as of the date of this Information Circular, the principal Canadian federal income tax considerations of the Arrangement generally applicable to a REIT Unitholder who, at all relevant times and for the purposes of the Tax Act, holds REIT Units as capital property and deals at arm's length, and is not affiliated, with the REIT. Generally, REIT Units will be considered to be capital property to a REIT Unitholder provided that such REIT Unitholder does not acquire or hold the REIT Units in the course of carrying on a business or as part of an adventure or concern in the nature of trade.

This summary is not applicable to a REIT Unitholder (i) that is a "financial institution" for purposes of the "mark-to-market rules" in the Tax Act, (ii) that is a "specified financial institution", (iii) an interest in which is a "tax shelter investment", (iv) that has elected to report its "Canadian tax results" in a currency other than Canadian currency, (v) that is exempt from tax under Part I of the Tax Act, and (vi) that holds REIT Units as part of a "derivative forward agreement" or "synthetic disposition arrangement", as each of those terms referred to above are defined in the Tax Act. Any such REIT Unitholder should consult their own tax advisors with respect to an investment in REIT Units.

This summary is based upon the facts set out in this Information Circular, certain representations as to factual matters made in a certificate signed by an officer of the REIT (the "**Officer's Certificate**"), the provisions of the Tax Act in force as at the date hereof, the Advance Tax Ruling and the current published administrative policies and assessing practices of the CRA. This summary also takes into account specific proposals to amend the Tax Act (the "**Tax Proposals**") and assumes that the Tax Proposals will be enacted as proposed but no assurances can be given that the Tax Proposals will be enacted in their current form or at all.

This summary does not otherwise take into account or anticipate any changes in law or in the administrative policies and assessing practices of the CRA, whether by legislative, governmental or judicial decision or action, and does not take into account any provincial, territorial or foreign tax legislation or considerations, which may differ significantly from those discussed in this Information Circular. Modification or amendment of the Tax Act or the Tax Proposals could significantly alter the tax status of the REIT or the tax consequences of holding REIT Units.

This summary is of a general nature only and is not exhaustive of all possible Canadian federal income tax considerations applicable to the Arrangement or of holding REIT Units. This summary is not intended to be legal or tax advice to any REIT Unitholder. REIT Unitholders should consult their own tax advisors with respect to the tax consequences of the Arrangement and acquiring, holding or disposing of REIT Units based on their own particular circumstances.

Qualification of the REIT as a Mutual Fund Trust and Real Estate Investment Trust

This summary assumes that the representations made in the Officer's Certificate are true and correct, including the representations that:

- the REIT has and will at all times comply with the Declaration of Trust and the Amended and Restated Declaration of Trust;
- the REIT has filed an election under subsection 132(6.1) of the Tax Act to be deemed to have been a "mutual fund trust" (as defined in the Tax Act) from the time of its establishment to January 1, 2016;
- the REIT qualifies, and will continuously qualify, as a "mutual fund trust" under the provisions of the Tax Act which will require it to limit its investments to certain prescribed investments and to meet certain dispersion of ownership requirements with respect to its REIT Units;
- the REIT was not established and will not be maintained primarily for the benefit of persons who are non-residents of Canada for the purposes of the Tax Act;
- the REIT will for each taxation year and on a continuous basis, constitute a "real estate investment trust" for the purposes of, and as defined in, the Tax Act;
- in computing its income for each fiscal period, the REIT will, in accordance with the Declaration of Trust, the Amended and Restated Declaration of Trust and the provisions of the Tax Act, deduct the amount of its income which is paid or payable to the REIT Unitholders such that it will not be subject to any material amount of tax under Part I of the Tax Act; and

- each direct or indirect subsidiary of the REIT qualifies, and will continue to qualify, at all relevant times, as an "excluded subsidiary entity" as defined in the Tax Act.

There can be no assurances, however, that the REIT or its subsidiaries will be able to meet and/or maintain its status as a "mutual fund trust", a "real estate investment trust" or "excluded subsidiary entity", as the case may be, or be able to restructure itself to so qualify or will not incur material costs to reorganize itself to so qualify for such status. If the REIT failed to qualify as a "real estate investment trust" for any particular taxation year, it would be subject to certain provisions of the "specified investment flow through" rules in the Tax Act (or "**SIFT Rules**"). The SIFT Rules effectively tax certain income of a publicly listed or traded trust that is distributed to its REIT Unitholders on the same basis had such income been earned by a taxable Canadian corporation and distributed to REIT Unitholders in the form of a taxable dividend. To the extent applicable to the REIT, the SIFT Rules may, depending on the nature of the distributions from the REIT, including what portion of its distributions are income and what portion are returns of capital, have a material adverse effect on the after-tax returns of certain REIT Unitholders. In addition, if the REIT were to be established or maintained primarily for the benefit of non-resident persons (for the purposes of the Tax Act), the REIT would permanently lose its status as a mutual fund trust.

The remainder of this summary assumes that the REIT will at all material times qualify as a "mutual fund trust" and a "real estate investment trust" (each, as defined in the Tax Act) and that neither the REIT nor any of its direct or indirect subsidiaries will be subject to the SIFT Rules. If any of such assumptions is not accurate, certain income tax consequences described below would, in some respects, be materially and adversely different.

REIT Unitholders Resident in Canada

The following portion of the summary is applicable to REIT Unitholders who at all relevant times are, or are deemed to be, resident in Canada for purposes of the Tax Act and any applicable tax treaty or convention (a "**Resident REIT Unitholder**"). Certain Resident REIT Unitholders who might not otherwise be considered to hold their REIT Units as capital property may, in certain circumstances, be entitled to make the irrevocable election under subsection 39(4) of the Tax Act to have their REIT Units, and every other "Canadian security" (as defined in the Tax Act) owned in the taxation year of the election and each subsequent taxation year, deemed to be capital property. Such Resident REIT Unitholders should consult their own tax advisors regarding whether such election is available and advisable in their particular circumstances.

Tax Considerations of the Arrangement

The REIT and its Subsidiaries

The REIT has applied to, and received from, the CRA, the Advance Tax Ruling. The Advance Tax Ruling confirms the material aspects of the Arrangement and the REIT has also received tax advice from its tax advisors relating to certain other aspects of the Arrangement. Based on the Advance Tax Ruling and advice received from its tax advisors, the REIT and its subsidiaries should not be required to include any amount in income as a result of the Arrangement or otherwise be subject to any material income taxes not otherwise disclosed herein.

Participation of Resident REIT Unitholders in the Arrangement

Resident REIT Unitholders will not be required to include in computing income for the year the nominal value of the Class A Shares received from the REIT as a return of capital. A Resident REIT Unitholder will be required to reduce the adjusted cost base of its REIT Units by the amount of the return of capital. To the extent that the adjusted cost base of a REIT Unit would otherwise be a negative amount, the negative amount will be deemed to be a capital gain realized by the Resident REIT Unitholder and the adjusted cost base of the REIT Unit to the Resident REIT Unitholder will then be nil. The cost to a Resident REIT Unitholder of a Class A Share distributed to such holder will be equal to the fair market value of such Class A Share at the time of the distribution. For a discussion of the taxation of capital gains and capital losses, see "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Taxation of Capital Gains and Capital Losses*".

A Resident REIT Unitholder holding Class A Shares will not realize a capital gain or a capital loss on the amalgamation of Killam MFC and KPI. The cost to a Resident REIT Unitholder of the Class A Shares of Killam Amalco MFC deemed to be received as a consequence of the amalgamation will be equal to the adjusted cost base of the Class A Shares of Killam MFC to that Resident REIT Unitholder immediately before the amalgamation.

A Resident REIT Unitholder holding Class A Shares of Killam Amalco MFC will not be considered to have received a dividend and will not realize a capital gain or a capital loss as a result of the receipt of REIT Units on the redemption of the Class A Shares. The cost to a Resident REIT Unitholder of REIT Units received by such holder on the redemption will be equal to the cost amount of the redeemed Class A Shares to the holder immediately prior to the redemption. The cost of these REIT Units will be required to be averaged with the adjusted cost base of all other REIT Units held by the Resident REIT Unitholder as capital property immediately before the acquisition in order to determine the adjusted cost base of each REIT Unit.

The consolidation of REIT Units occurring as part of the Arrangement will not be considered to result in a disposition of REIT Units by Resident REIT Unitholders. The aggregate adjusted cost base of REIT Units owned by a Resident REIT Unitholder after the Arrangement will be equal to the aggregate adjusted cost base of the REIT Units owned by the Resident REIT Unitholder immediately prior to the Arrangement.

No amount of income will be required to be included in the income of a Resident REIT Unitholder as a result of the amendments to the Declaration of Trust.

Dissenting Resident REIT Unitholders

A Resident REIT Unitholder who validly exercises Arrangement Dissent Rights (a "**Resident Dissenter**") will be deemed to have transferred such Resident Dissenter's REIT Units to the REIT, and will be entitled to receive a payment from the REIT of an amount equal to the fair value of such Resident Dissenter's REIT Units.

A Resident Dissenter will be considered to have disposed of its REIT Units for proceeds of disposition equal to the amount paid to such Resident Dissenter less such portion of the amount in respect of interest, if any, awarded by the Court. Resident Dissenters may realize a capital gain (or a capital loss) to the extent that such proceeds of disposition exceed (or are less than) the aggregate of the adjusted cost base of the REIT Units to the Resident Dissenter and reasonable costs of the disposition. The taxation of capital gains and capital losses is discussed below under the heading "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Taxation of Capital Gains and Capital Losses*".

Any interest awarded by the Court to a Resident Dissenter will be included in such Resident Dissenter's income for the purposes of the Tax Act and will not be included in such Resident Dissenter's proceeds of disposition.

Resident Dissenters who are contemplating exercising their Arrangement Dissent Rights should consult their own tax advisors with respect to the Canadian federal income tax consequences of exercising their Arrangement Dissent Rights.

Tax Considerations Following the Arrangement

Taxation of the REIT

The taxation year of the REIT is the calendar year. Subject to the SIFT Rules, the REIT will generally be subject to tax under Part I of the Tax Act on its income for each taxation year computed in accordance with the detailed provisions of the Tax Act including net realized taxable capital gains for that year and its allocated share of income of Killam MLP for its fiscal period ending on or before the year-end of the REIT, less the portion thereof that the REIT deducts in respect of the amounts paid or payable, or deemed to be paid or payable, in the taxation year to REIT Unitholders. An amount will be considered to be payable to a REIT Unitholder in a taxation year if it is paid to the REIT Unitholder in the year by the REIT or if the REIT Unitholder is entitled in that year to enforce payment of the amount. However, the REIT will be denied a deduction for (a) any income of the REIT designated to a REIT Unitholder on a redemption of REIT Units, where the REIT Unitholder's proceeds of disposition are reduced by the

designation, and (b) the portion of a capital gain designated to a REIT Unitholder on a redemption of REIT Units that is greater than the REIT Unitholder's accrued gain on those REIT Units, where the REIT Unitholder's proceeds of disposition are reduced by the designation.

Killam MLP is not subject to tax under the Tax Act. Each partner of Killam MLP is required to include in computing the partner's income for a particular taxation year the partner's share of the income or, subject to the potential application of the "at-risk" rules, loss of Killam MLP for its year ending in, or coincidentally with, the partner's taxation year, whether or not any of that income is distributed to the partner in the taxation year. For this purpose, the income or loss of Killam MLP will be computed for each year as if Killam MLP were a separate person resident in Canada. In computing the income or loss of Killam MLP, deductions may be claimed in respect of available capital cost allowances, reasonable administrative costs, interest and other expenses incurred by Killam MLP for the purpose of earning income, subject to the relevant provisions of the Tax Act.

The income or loss of Killam MLP for a year will be allocated to the partners of Killam MLP, including the REIT, on the basis of their respective share of that income or loss as provided in the Killam MLP Agreement, subject to the detailed rules in the Tax Act in that regard.

Generally, distributions to partners in excess of the income of Killam MLP for a year will result in a reduction of the adjusted cost base of the partner's units of Killam MLP by the amount of such excess. If, as a result, the adjusted cost base to the REIT of its units of Killam MLP would otherwise be a negative amount, the REIT will be deemed to realize a capital gain equal to such negative amount, and the REIT's adjusted cost base of its units of Killam MLP will then be reset to zero.

In computing its income for purposes of the Tax Act, the REIT may deduct reasonable administrative costs and other reasonable expenses incurred by it for the purpose of earning income. The REIT may also deduct from its income for the year a portion of any reasonable expenses incurred by the REIT to issue REIT Units. The portion of the issue expenses deductible by the REIT in a taxation year is 20% of the total issue expenses, pro-rated where the REIT's taxation year is less than 365 days. Any losses incurred by the REIT (including losses allocated to the REIT by Killam MLP and capable of being deducted by the REIT) may not be allocated to REIT Unitholders, but may generally be carried forward and deducted in computing the taxable income of the REIT in future years in accordance with the detailed rules and limitations in the Tax Act. See discussion below on the potential impact of the EIFEL Rules on the deduction of interest by the REIT and its subsidiaries under the heading "*Risk Factors – Risks Related to Taxes – Tax Risks*".

Pursuant to the REIT's distribution policy, the Trustees currently intend to make distributions in each year to REIT Unitholders in an amount sufficient to ensure that the REIT will generally not be liable to tax under Part I of the Tax Act in any year (after taking into account any losses or capital losses that may be carried forward from prior years).

See the discussion under "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Taxation of Capital Gains and Capital Losses*" on how the 2024 Capital Gains Proposals may impact the REIT and the REIT Unitholders.

Taxation of REIT Unitholders

Distributions by the REIT

Subject to the application of the SIFT Rules, a REIT Unitholder will generally be required to include in income for a particular taxation year the portion of the net income of the REIT for the taxation year ending on or before the particular taxation year-end of the REIT Unitholder, including net realized taxable capital gains, that is paid or payable, or deemed to be paid or payable, to the REIT Unitholder in the particular taxation year (and that the REIT deducts in computing its income), whether such portion is received in cash, additional REIT Units or otherwise. Distributions which are made through the issuance of additional REIT Units may give rise to a taxable income inclusion for the REIT Unitholders even though no cash has been distributed to REIT Unitholders. Any loss of the REIT for purposes of the Tax Act cannot be allocated to, or treated as a loss of, a REIT Unitholder.

Provided that the appropriate designations are made by the REIT, such portion of net taxable capital gains of the REIT as is paid or payable, or deemed to be paid or payable, to a REIT Unitholder will effectively retain its character and be treated as such in the hands of the REIT Unitholder for purposes of the Tax Act. For a description of the tax treatment of capital gains and capital losses, see "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Taxation of Capital Gains and Capital Losses*" below.

The non-taxable portion of any net realized taxable capital gains of the REIT that is paid or payable, or deemed to be paid or payable, to a REIT Unitholder in a taxation year will not be included in computing the REIT Unitholder's income for the year. Any other amount in excess of the net income and net taxable capital gains of the REIT that is paid or payable, or deemed to be paid or payable, by the REIT to a REIT Unitholder in a taxation year will generally not be included in the REIT Unitholder's income for the year. A REIT Unitholder will be required to reduce the adjusted cost base of its REIT Units by the portion of any amount (other than the non-taxable portion of net realized capital gains of the REIT for the year, the taxable portion of which was designated by the REIT in respect of the REIT Unitholder) paid or payable to such REIT Unitholder that was not included in computing the REIT Unitholder's income. To the extent that the adjusted cost base of a REIT Unit would otherwise be less than zero, the negative amount will be deemed to be a capital gain realized by the REIT Unitholder from the disposition of the REIT Unit and will be added to the adjusted cost base of the REIT Unit so that the adjusted cost base will be reset to zero. The composition of distributions paid by the REIT, portions of which may be fully or partially taxable or non-taxable, may change over time, affecting the after-tax return to REIT Unitholders.

To the extent that amounts are designated as having been paid to REIT Unitholders out of taxable dividends received or deemed to have been received by the REIT on shares of taxable Canadian corporations, the normal gross-up and dividend tax credit rules, including the enhanced gross-up and dividend tax credit rules in respect of dividends designated by the corporation as "eligible dividends" will apply to REIT Unitholders who are individuals (other than certain trusts). A REIT Unitholder that is a corporation is required to include amounts designated as taxable dividends in computing its income for tax purposes and will generally be entitled to deduct the amount of such dividends in computing its taxable income. Certain corporations, including "private corporations" or "subject corporations" (as defined in the Tax Act) may be liable to pay a refundable tax under Part IV of the Tax Act on such dividends to the extent that such dividends are deductible in computing taxable income.

Dispositions of REIT Units

On any disposition or deemed disposition of a REIT Unit (including a redemption), a REIT Unitholder will generally realize a capital gain (or a capital loss) equal to the amount by which the REIT Unitholder's proceeds of disposition, excluding any amount payable by the REIT which represents an amount that must otherwise be included in the REIT Unitholder's income as described herein, exceed (or are less than) the aggregate of the REIT Unitholder's adjusted cost base of the REIT Unit immediately before such disposition and any reasonable costs of such disposition. For the purpose of determining the adjusted cost base to a REIT Unitholder, when a REIT Unit is acquired, the cost of the newly acquired REIT Unit will be averaged with the adjusted cost base of all of the REIT Units owned by the REIT Unitholder as capital property immediately before that acquisition. The adjusted cost base of a REIT Unit to a REIT Unitholder will include all amounts paid by the REIT Unitholder for the REIT Unit subject to certain adjustments. The cost to a REIT Unitholder of REIT Units received in lieu of a cash distribution of income of the REIT will be equal to the amount of such distribution that is satisfied by the issuance of such REIT Units.

A redemption of REIT Units in consideration for cash or redemption note, as the case may be, will be a disposition of such REIT Units for proceeds of disposition equal to such cash or the fair market value of such notes, as the case may be, less any income or capital gain realized by the REIT in connection with the redemption of those REIT Units to the extent that such income or capital gain is designated to the redeeming REIT Unitholder.

REIT Unitholders exercising the right of redemption will consequently realize a capital gain (or capital loss), depending upon whether the proceeds of disposition received exceed (or are less than) the adjusted cost base of the REIT Units redeemed. A REIT Unitholder who is issued redemption notes will thereafter be required to include in income interest on such notes in accordance with the provisions of the Tax Act. REIT Unitholders who are trusts governed by Deferred Plans and DPSPs should consult their own tax advisors as to whether the redemption notes constitute a qualified investment for the purposes of such plans.

The consolidation of REIT Units of the REIT will not be considered to result in a disposition of REIT Units by REIT Unitholders. The aggregate adjusted cost base to a REIT Unitholder of all of the REIT Unitholder's REIT Units will not change as a result of a consolidation of REIT Units; however, the adjusted cost base per REIT Unit will increase.

Taxation of Capital Gains and Capital Losses

For capital gains and capital losses realized on or after June 25, 2024, under Tax Proposals released on September 23, 2024 (the "**2024 Capital Gains Proposals**"), and subject to certain transitional rules discussed below, generally, a Resident REIT Unitholder is required to include in computing its income two thirds of the amount of any such capital gain (a "taxable capital gain") realized in the year, and is required to deduct two thirds of the amount of any such capital loss (an "allowable capital loss") realized in a taxation year from taxable capital gains realized in the year by such Resident REIT Unitholder. However, under the 2024 Capital Gains Proposals, a Resident REIT Unitholder that is an individual (excluding most types of trusts) is required to include in income only one half of net capital gains realized (including net capital gains realized indirectly through a trust or partnership) in a taxation year (and on or after June 25, 2024) up to a maximum of \$250,000, with the two thirds inclusion rate applying to the portion of net capital gains realized in the year (and on or after June 25, 2024) that exceed \$250,000. This annual \$250,000 threshold may be impacted by any stock option benefit deduction claimed by the Resident REIT Unitholder that is an individual in that taxation year. Allowable capital losses in excess of taxable capital gains realized in a taxation year may be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any following taxation year against net taxable capital gains realized in such year to the extent and under the circumstances described in the Tax Act (as proposed to be amended by the 2024 Capital Gains Proposals).

Subject to transitional rules in the 2024 Capital Gains Proposals, for a capital gain or capital loss realized prior to June 25, 2024, only one half of such capital gain would be included in income as a taxable capital gain and one half of such capital loss would constitute an allowable capital loss.

Under the 2024 Capital Gains Proposals, different inclusion rates (or a blended inclusion rate) may apply for taxation years that begin before and end on or after June 25, 2024 (the "**Transitional Year**"). As a result, for its Transitional Year, a Resident REIT Unitholder will be required to separately identify capital gains and capital losses realized before June 25, 2024 ("**Period 1**") and those realized on or after June 25, 2024 ("**Period 2**"). Capital gains and capital losses from the same period will first be netted against each other. A net capital gain (or net capital loss) will arise if capital gains (or capital losses) from one period exceed capital losses (or capital gains) from that same period. A Resident REIT Unitholder would effectively be subject to the higher inclusion rate of two thirds in respect of its net capital gains (or net capital losses) arising in Period 2, to the extent that these net capital gains (or net capital losses) exceed any net capital losses (or net capital gains) incurred in Period 1. Conversely, a Resident REIT Unitholder would effectively be subject to the lower inclusion rate of one half in respect of its net capital gains (or net capital losses) arising in Period 1, to the extent that these net capital gains (or net capital losses) exceed any net capital losses (or net capital gains) incurred in Period 2.

The annual \$250,000 threshold for a Resident REIT Unitholder that is an individual (excluding most types of trusts) will be fully available in 2024 without proration and will apply only in respect of net capital gains realized in Period 2 less any net capital loss from Period 1. Certain other limitations to the \$250,000 threshold may apply.

Under the 2024 Capital Gains Proposals, two thirds of capital losses realized prior to June 25, 2024 will be deductible against capital gains realized on or after June 25, 2024 included in income at the two thirds inclusion rate regardless of the inclusion rate which applied at the time such capital losses were realized.

Pursuant to the 2024 Capital Gains Proposals, net capital gains of REIT that are included in the Resident REIT Unitholder's income for the year (and for which appropriate designations are made by REIT) should benefit from the lower one-half capital gains inclusion rate to the Resident REIT Unitholder up to the \$250,000 annual threshold discussed above. For the taxation year of REIT that begins before June 25, 2024 and ends after June 24, 2024, based on the 2024 Capital Gains Proposals, the amount designated to REIT Unitholders in respect of REIT's net taxable capital gains will be grossed up (doubled for gains in the pre-June 25 period and increased by 3/2 for gains in the post-June 24 period) and deemed to be capital gains realized by the Resident REIT Unitholder in the period that REIT disposed of the relevant capital property (either pre-June 25 or post-June 24). REIT will be required to disclose to its REIT Unitholders in prescribed form the portion of the deemed capital gains that relates to dispositions of

property that occurred in each period. If REIT does not disclose this information, the deemed capital gains would be deemed to have been realized after June 24, 2024. REIT also has the option of electing the deemed capital gains allocated to its REIT Unitholders to have been realized by them proportionally within the two periods based on the number of days in each period divided by the number of days in REIT's taxation year. Resident REIT Unitholders should consult their own tax advisors having regard to their own circumstances.

Under the transitional rules included in the 2024 Capital Gains Proposals, if the REIT is a member of a partnership during the REIT's 2024 taxation year, the REIT will be deemed to directly realize a capital gain or capital loss to the extent of its allocable share of any capital gains or capital losses realized (or deemed to be realized) by the partnership for the fiscal period, in lieu of being required to include (or permitted to deduct) in computing its income any portion of the associated taxable capital gain or allowable capital loss of the partnership. The REIT will then be required to include (or permitted to deduct) the taxable (or allowable) portion of such capital gain or loss in computing its income for the year. Where the partnership has a fiscal period that begins before June 25, 2024 and ends after June 24, 2024, any such capital gain deemed to be realized by the REIT will be deemed to be from a disposition of property in the period (prior to June 25, 2024 or after June 24, 2024, as the case may be) in which the applicable disposition occurred. Where the partnership has a fiscal period beginning after June 24, 2024, any such capital gain deemed to be realized by the REIT will be deemed to be from a disposition of property at the end of such fiscal period. REIT can designate capital gains realized (or deemed to be realized) to REIT Unitholders as described above.

The foregoing summary only generally describes the considerations applicable under the 2024 Capital Gains Proposals and is not an exhaustive summary of the considerations that could arise in respect of the 2024 Capital Gains Proposals. Furthermore, the announcements accompanying the 2024 Capital Gains Proposals indicated that additional draft legislation to implement the change to the capital gains inclusion rate will be forthcoming. Resident REIT Unitholders should consult their own tax advisors with regard to the 2024 Capital Gains Proposals.

Where a Resident REIT Unitholder that is a corporation or a trust (other than a mutual fund trust) disposes of a REIT Unit, the Resident REIT Unitholder's capital loss from the disposition generally will be reduced by the amount of any dividends previously designated by the REIT to the Resident REIT Unitholder, to the extent and under the circumstances prescribed in the Tax Act. Similar rules may apply where a corporation or trust (other than a mutual fund trust) is a member of a partnership that disposes of REIT Units.

A Resident REIT Unitholder that is throughout the relevant taxation year a "Canadian-controlled private corporation", as defined in the Tax Act, or that is a "substantive CCPC" (as defined in the Tax Act) at any time in the relevant taxation year, may be liable to pay an additional tax on certain investment income, including taxable capital gains, dividends received or deemed to be received (but not dividends or deemed dividends that are deductible in computing taxable income) and interest. Such additional tax may be refundable in certain circumstances. Resident REIT Unitholders that are corporations should contact their own tax advisors in this regard.

Capital gains realized and dividends received or deemed to be received by a Resident REIT Unitholder that is an individual or a trust, other than certain specified trusts, may give rise to a liability for alternative minimum tax under the Tax Act. Recent amendments to the Tax Act may affect the liability of a Resident REIT Unitholder for alternative minimum tax. Resident REIT Unitholders should consult their own advisors with respect to the potential application of alternative minimum tax having regard to their own particular circumstances.

REIT Unitholders Not Resident in Canada

This portion of the summary is generally applicable to a REIT Unitholder who, at all relevant times, for the purposes of the Tax Act and any applicable tax treaty or convention, is not, and is not deemed to be, resident in Canada and does not use or hold, and is not deemed to use or hold, the REIT Units in a business carried on or deemed to be carried on in Canada (a "Non-Resident REIT Unitholder"). Special rules, which are not discussed in this summary, may apply to a REIT Unitholder that is an insurer carrying on an insurance business in Canada and elsewhere. Such Non-Resident REIT Unitholders are urged to consult their own tax advisors.

Tax Considerations Applicable to the Arrangement

The REIT and its Subsidiaries

See discussion above under the heading "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Tax Considerations of the Arrangement – The REIT and its Subsidiaries*" for a summary of the Canadian federal income tax consequences to REIT and its subsidiaries of the Arrangement.

Non-Resident REIT Unitholders Participating in the Arrangement

Under the Tax Act, a 15% tax under Part XIII.2 of the Tax Act will be imposed on distributions by certain mutual fund trusts to non-resident persons (including a partnership other than a Canadian partnership (as defined in the Tax Act)) where such distributions are not otherwise subject to tax under the Tax Act. This tax will apply to the return of capital comprising the aggregate of the distribution of the Class A Shares to Non-Resident REIT Unitholders and the amount of such tax remitted by REIT on behalf of such REIT Unitholders in respect of such return of capital, as described in the following sentence. REIT will remit to the Receiver General, on behalf of a Non-Resident REIT Unitholder, the Part XIII.2 tax applicable to the return of capital to such Non-Resident REIT Unitholders. As the return of capital is subject to Part XIII.2 tax, such amount will not reduce the adjusted cost base of the REIT Units held by a Non-Resident REIT Unitholder, with the result that the aggregate adjusted cost base of the REIT Units owned by a Non-Resident REIT Unitholder immediately after the Arrangement should be equal to the aggregate adjusted cost base of the REIT Units owned by such Non-Resident REIT Unitholder immediately prior to the Arrangement.

Tax Considerations Following the Arrangement

Distributions by REIT

Where the REIT pays or credits, or is deemed to pay or credit, an amount to a Non-Resident REIT Unitholder out of the income of the REIT, the Non-Resident REIT Unitholder will be subject to Canadian withholding tax at a rate of 25%, unless that rate is reduced under the provisions of an applicable tax treaty or convention. A distribution to a Non-Resident REIT Unitholder (or a partnership other than a Canadian partnership) (as defined in the Tax Act) that is considered to have been made out of net capital gains of the REIT from dispositions of "taxable Canadian property" will be subject to Canadian withholding tax at a rate of 25%, unless such rate is reduced under the provisions of an applicable tax treaty or convention. The rate of withholding in either of these circumstances is generally reduced to 15% for distributions to Non-Resident REIT Unitholders who are residents of the U.S. under the *Canada - United States Tax Convention, (1980)* and entitled to the treaty benefits thereunder.

As described above under the heading "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Not Resident in Canada – Tax Considerations Applicable to the Arrangement – Non-Resident REIT Unitholders Participating in the Arrangement*", a distribution of capital by the REIT to a non-resident person (or a partnership other than a Canadian partnership) (as defined in the Tax Act) which would otherwise not be subject to tax under the Tax Act will be subject to a 15% withholding tax under Part XIII.2 of the Tax Act.

Disposition of REIT Units

A Non-Resident REIT Unitholder will not be subject to tax under the Tax Act on any capital gain realized on a disposition or deemed disposition of a REIT Unit, and may not recognize any capital loss realized, unless at the time of the disposition such REIT Unit: (i) is "taxable Canadian property" to the Non-Resident REIT Unitholder for purposes of the Tax Act; and (ii) is not "treaty-protected property" (as defined in the Tax Act) of the Non-Resident REIT Unitholder at the time of the disposition.

Generally, a REIT Unit will not constitute "taxable Canadian property" of a Non-Resident REIT Unitholder at the time of the disposition provided that REIT is a "mutual fund trust" as defined in the Tax Act at that time, unless at any time during the 60-month period immediately preceding the disposition (i) at least 25% or more of the issued REIT Units of REIT was owned by or belonged to any combination of (A) the Non-Resident REIT Unitholder, (B) persons with whom the Non-Resident REIT Unitholder did not deal at arm's length (for the purposes of the Tax Act), and

(C) partnerships in which the Non-Resident REIT Unitholder or a person described in (B) holds a membership interest directly or indirectly through one or more partnerships; and (ii) more than 50% of the fair market value of the REIT Units was derived directly or indirectly from one, or any combination of, real or immovable property situated in Canada, Canadian resource property (as defined in the Tax Act), timber resource property (as defined in the Tax Act) and options in respect of, interests in or for civil law rights in any such property (whether or not such property exists). Non-Resident REIT Unitholders for whom a REIT Unit is, or may be, taxable Canadian property should consult their own tax advisors.

In the event the REIT Units are "taxable Canadian property" to the Non-Resident REIT Unitholder and are not "treaty-protected property" to the Non-Resident REIT Unitholder at the time of the disposition, the tax consequences to such Non-Resident REIT Unitholder will generally be the same as described above under the heading "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Resident in Canada – Tax Considerations Following the Arrangement – Taxation of REIT Unitholders – Disposition of REIT Units*", as if the Non-Resident REIT Unitholder were a Resident REIT Unitholder thereunder. REIT Units owned by a Non-Resident REIT Unitholder will generally be "treaty-protected property" if the gain from the disposition of such property would, because of an applicable income tax treaty or convention, be exempt from tax under Part I of the Tax Act.

Dissenting Non-Resident REIT Unitholders

A Non-Resident REIT Unitholder who validly exercises Arrangement Dissent Rights (a "**Non-Resident Dissenter**") will be deemed to have transferred such Non-Resident Dissenter's REIT Units to REIT and will be entitled to receive a payment from REIT of an amount equal to the fair value of such Non-Resident Dissenter's REIT Units.

A Non-Resident Dissenter pursuant to the Arrangement will be considered to have disposed of such REIT Units for proceeds of disposition equal to the amount of the cash payment less such portion of the amount in respect of interest, if any, awarded by the Court. Such Non-Resident Dissenter will realize a capital gain (or a capital loss) to the extent that such payment (other than any portion thereof that is interest) exceeds (or is less than) the aggregate of the adjusted cost base of the REIT Units to the Non-Resident Dissenter and any reasonable costs of the disposition. As discussed above under "*Certain Canadian Federal Income Tax Considerations – REIT Unitholders Not Resident in Canada – Tax Considerations Following the Arrangement – Disposition of REIT Units*", any resulting capital gain would only be subject to tax under the Tax Act if the Non-Resident Dissenter's REIT Units are taxable Canadian property to the Non-Resident Dissenter at the Effective Time and are not "treaty-protected property" of the Non-Resident Dissenter at that time.

Any interest paid or credited to a Non-Resident Dissenter will generally not be subject to Canadian withholding tax under the Tax Act, provided such interest is not "participating debt interest" for the purposes of the Tax Act and will not be included in such Non-Resident Dissenter's proceeds of disposition.

Non-Resident Dissenters who are contemplating exercising their Arrangement Dissent Rights should consult their own tax advisors with respect to the Canadian federal income tax consequences of exercising their Arrangement Dissent Rights.

ELIGIBILITY FOR INVESTMENT

Subject to TSX approval in the case of the Class A Shares and provided that the REIT Units are at all relevant times listed on a "designated stock exchange" for purposes of the Tax Act (which currently includes the TSX) in the case of REIT Units, each of the Class A Shares and the REIT Units will be a qualified investment under the Tax Act for a trust governed by registered retirement savings plan, a registered retirement income fund, a registered education savings plan, a registered disability savings plan, a tax-free savings account, and a first home savings account (collectively, "**Deferred Plans**") and a deferred profit sharing plan ("**DPSP**").

Notwithstanding the foregoing, an annuitant, holder or subscriber of or under a Deferred Plan, as the case may be, that holds Class A Shares and REIT Units, as the case may be, will be subject to a penalty tax if such securities are a "prohibited investment" for such Deferred Plan for the purposes of the Tax Act. Class A Shares and REIT Units, as the case may be, will not be a "prohibited investment" for a Deferred Plan provided the annuitant, holder, or subscriber

of or under such Deferred Plan, as the case may be, deals at arm's length with the REIT for purposes of the Tax Act and does not have a "significant interest" (as defined in the Tax Act) in the REIT. In addition, Class A Shares and REIT Units will generally not be a "prohibited investment" if such Class A Shares and REIT Units are "excluded property" for purposes of the prohibited investment rules.

Resident REIT Unitholders should consult their own tax advisors regarding their particular circumstances and requirements and rules regarding holding and transferring securities in their Deferred Plans and DPSPs.

RISK FACTORS

Unitholders should carefully consider the risk factors set out below regarding the Arrangement and consider all other information contained herein and in Killam's other public filings before determining how to vote on the matters before the Meeting.

Risks Related to the Arrangement

Required Regulatory and Third-Party Approvals

Completion of the Arrangement in the form contemplated by the Plan of Arrangement, requires that the REIT obtain a number of judicial, regulatory and third-party approvals. Such approvals include, without limitation, issuance of the Final Order and approval from the TSX in connection with the Arrangement. Failure to obtain the Final Order on terms acceptable to the Trustees would likely result in the decision being made to not proceed with the Arrangement. If any of the required regulatory and third-party approvals cannot be obtained on terms satisfactory to the Trustees, or at all, the Plan of Arrangement may have to be amended in order to mitigate against the negative consequence of the failure to obtain any such approval, and accordingly, the benefits available to Unitholders resulting from the Arrangement may be reduced. Alternatively, in the event that the Plan of Arrangement cannot be amended so as to mitigate against the negative consequence of the failure to obtain a required regulatory or third-party approval, the Arrangement may not proceed at all.

The Trustees will consider a number of factors in considering whether to exercise their discretion as to whether or not to amend the Plan of Arrangement or proceed with the Arrangement. If the Arrangement is not completed, the market price of the Units may be adversely affected. See "*The Arrangement – Amendment of the Plan and Factors Affecting Implementation of the Arrangement*" for a discussion of such factors. See "*The Arrangement – Procedure for the Arrangement Becoming Effective*".

Risks Related to the REIT

As described herein, the Arrangement and the Related Transactions will not directly impact Unitholders' holdings in Killam. After the Arrangement and the Related Transactions are completed, Unitholders will hold the same number, type and percentage of outstanding Units as they held immediately before the Arrangement. Accordingly, current Unitholders will be subject to the same risks associated with their existing investment in the Units.

Killam faces a variety of risks, the majority of which are common to real estate investment trusts. These risks include: (i) changes in general economic conditions; (ii) changes in local conditions (such as an oversupply of units or a reduction in demand for real estate in an area); (iii) changes to government regulations (such as new or revised residential tenant legislation); (iv) competition from others with available units; and (v) the ability of the property owner to provide adequate maintenance economically.

Real estate is relatively illiquid and, therefore, can tend to limit Killam's ability to rebalance its portfolio promptly in response to changing economic or investment conditions. In addition, financial difficulties of other property owners, resulting in distress sales, may depress real estate values in the markets in which Killam operates. Killam's exposure to general risks associated with real estate investments is mitigated by its geographic and sector diversification due to investments in apartments, manufactured home communities and commercial properties across the country.

Killam is also exposed to other risks. For information on such risks refer to the section entitled "Risk Factors" in the REIT's annual information form for the year ended December 31, 2023.

Risks Related to Taxes

Status of the REIT

Management of the REIT believes that the REIT currently qualifies as a mutual fund trust under the Tax Act. In order to maintain its mutual fund trust status, the REIT is required to comply with specific restrictions regarding its activities and the investments held by it as provided in the Tax Act. If it were to cease to qualify as a mutual fund trust, the consequences could be material and adverse.

Pursuant to the Tax Act, a mutual fund trust cannot be established or maintained primarily for the benefit of non-resident persons. The Declaration of Trust contains certain restrictions relating to the ownership of Units by non-resident persons that are designed to mitigate the possibility that the REIT would be viewed as having been established or maintained primarily for the benefit of non-resident persons. If the REIT were to lose its mutual fund trust status for the purposes of the Tax Act, the consequences could be material and adverse, including with respect to the Arrangement.

The REIT expects to qualify as a real estate investment trust (as defined in the Tax Act) for its current taxation year and each subsequent taxation year. However, such determination can only be made at the end of the REIT's taxation year. Should the REIT not meet the conditions for being a real estate investment trust (as defined in the Tax Act), the SIFT Rules would be applicable to the REIT. Management intends to take all the necessary steps to meet these conditions on an ongoing basis in the future. There can be no assurances that the REIT will continue to qualify as a real estate investment trust (as defined in the Tax Act) such that the REIT and its Unitholders will not be subject to the tax imposed by the SIFT Rules.

The REIT expects that each direct or indirect subsidiary of the REIT will qualify as an excluded subsidiary entity (as defined in the Tax Act) for their respective current taxation years and their respective subsequent taxation years. However, such determination can only be made at the end of each particular direct or indirect subsidiary's taxation year. Should a particular subsidiary not meet the conditions for being an excluded subsidiary entity (as defined in the Tax Act), the SIFT Rules would be applicable to that subsidiary. Management intends to take all the necessary steps to meet these conditions on an ongoing basis in the future. There can be no assurances that each direct or indirect subsidiary will continue to qualify as an excluded subsidiary entity (as defined in the Tax Act) such that the REIT and its Unitholders will not be subject to the tax imposed by the SIFT Rules.

The SIFT Rules (if such rules were to apply) may have an adverse impact on the REIT, each direct and indirect subsidiary of the REIT (including Killam MLP) and the Unitholders, on the value of the Units and on the ability of the REIT and each direct or indirect subsidiary of the REIT to undertake financings and acquisitions, and if the SIFT Rules were to apply, the distributable cash of the REIT may be materially reduced. The effect of the SIFT Rules, if such rules were to apply, on the market for the Units is uncertain.

Tax Risk

There can be no assurance that Canadian federal income tax laws, the terms of the Canada-United States Income Tax Convention, or the administrative policies and assessing practices of the CRA, will not be changed in a manner that adversely affects the REIT or Unitholders. Any such change could increase the amount of tax payable by the REIT, or its affiliates and/or Unitholders or could otherwise adversely affect Unitholders by reducing the amount available to pay distributions or changing the tax treatment applicable to Unitholders in respect of distributions.

Although management of the REIT believes that all expenses paid by the REIT and its subsidiaries are reasonable and deductible, there is no certainty that the CRA will agree with management's view. To the extent that any expenses are determined not to be deductible, this could have a material adverse effect upon the cash flow of the REIT.

Recent amendments to the Tax Act (the "**EIFEL Rules**") generally limit the deductibility of interest and financing expenses of a Canadian resident corporation or trust that is not an "excluded entity" to a fixed ratio of tax EBITDA (as calculated in accordance with the EIFEL Rules). The REIT does not expect the EIFEL Rules to have an adverse impact on the REIT, its subsidiaries or the REIT Unitholders, but there can be no assurances in this regard. If the EIFEL Rules were to apply to restrict deductions otherwise available to the REIT and/or its subsidiaries, the taxable component of distributions paid by the REIT to Unitholders may be increased, which could reduce the after-tax return associated with an investment in REIT Units.

PROXY AND VOTING INFORMATION

Beneficial Unitholders should read the information under the heading "*Proxy and Voting Information – Advice to Beneficial Unitholders*" for an explanation of their rights.

Who is soliciting my proxy?

Management of Killam is soliciting your proxy. This Information Circular is furnished in connection with the solicitation by and on behalf of the management of Killam of proxies to be used at the Meeting. It is expected that the solicitation will be primarily by mail and electronic means, but Trustees, officers and employees may also solicit proxies at a nominal cost to the REIT. The costs of the solicitation will be borne by Killam.

What is quorum for the Meeting?

The quorum at the Meeting shall consist of at least two individuals present in person, each of whom is a Unitholder or represented by proxy representing a Unitholder, and who hold or represent by proxy in aggregate not less than 25% of the total number of outstanding REIT Units and Special Voting Units.

How can I vote?

If you are a registered Unitholder you can vote in person at the Meeting, or you can sign the enclosed form of proxy ("**Proxy**") appointing the persons named in the proxy or some other person, who need not be a Unitholder, to represent you as proxyholder and vote your Units or Special Voting Units at the Meeting. You may also vote using the telephone or the internet, as described on the enclosed Voting Information Form ("**VIF**").

Please note that the majority of Unitholders are beneficial unitholders. Beneficial Unitholders are persons who have purchased Units and are entitled to distributions but who may not be registered on Killam's records for the purposes of voting at Unitholder meetings. Usually, a depository, broker or other intermediary is listed as the registered owner. If you are a beneficial unitholder, please see the section entitled "*Proxy and Voting Information – Advice to Beneficial Unitholders*" for voting instructions.

Can I vote online?

If you are a registered Unitholder, go to www.investorvote.com and follow the instructions. You will need your control number (located below the voting instructions on the front of your proxy) to identify yourself to the system. You must submit your vote no later than 10:00 a.m. (Atlantic time) on November 19, 2024.

Appointing a Proxyholder

A Proxy accompanies this Information Circular, and the persons named in the Proxy are Trustees or officers of Killam. **A Unitholder has the right to appoint a person (who does not need to be a Unitholder), other than the persons designated in the Proxy, to represent them at the Meeting.** To exercise this right, a Unitholder should strike out the Management-designated names on the Proxy and insert the name of the desired person in the blank space provided on the Proxy. Alternatively, a Unitholder may complete another appropriate form of proxy. The Proxy, or an alternate form of proxy, will not be valid unless it is deposited at the offices of Computershare Investor Services Inc., at 100

University Ave, 8th floor, Toronto, Ontario, M5J 2Y1 by 10:00 a.m. (Atlantic time) on November 19, 2024, or not less than 48 hours (excluding Saturdays, Sundays, and statutory holidays) before the time of the Meeting.

What if I change my mind after the Proxy has been submitted?

A Unitholder who has submitted a Proxy or alternative form of proxy may revoke it with an instrument in writing signed by the Unitholder or by their duly authorized attorney or, if the Unitholder is a corporation, by a duly authorized officer or officers or attorney of such corporation, provided such instrument is deposited either: (i) at Killam's head office, being 3700 Kempt Road, Suite 100, Halifax, Nova Scotia, B3K 4X8, at any time up to and including the last business day preceding the day of the Meeting, or any adjournment or postponement of the Meeting at which the form of proxy is to be used; or (ii) with the Chair of the Meeting on the day of the Meeting. In addition, a Proxy or alternative form of proxy may be revoked: (i) by the Unitholder personally attending at the Meeting and voting the securities represented by the Proxy or alternative form of proxy; (ii) if the Unitholder is a corporation, by a duly authorized officer or officers or attorney of such corporation attending at the Meeting and voting such securities; or (iii) in any other manner permitted by law.

How will my Units be voted with the Proxy?

The persons named in the Proxy will vote, or withhold from voting, the REIT Units and Special Voting Units in respect of which they are appointed on any ballot that may be called for in accordance with the instructions of the Unitholder appointing them.

In the absence of such specification, the Proxyholder shall be deemed to have been granted the authority to vote the relevant REIT Units and Special Voting Units FOR the Arrangement Resolution. The Proxy also confers discretionary authority upon the persons named in the Proxy with respect to amendments to, or variations of, the matters identified in the Notice of Meeting and with respect to other matters that may properly be brought before the Meeting. As of the date of this Information Circular, Management knows of no such amendment, variation or other matter to come before the Meeting other than the matters referred to in the Notice of Meeting.

Who can sign the Proxy?

The Proxy must be signed by the Unitholder or the Unitholder's duly appointed attorney authorized in writing or, if the Unitholder is a corporation, by a duly authorized officer or officers or attorney of such corporation. A Proxy signed by a person acting as attorney or in some other representative capacity (including a representative of a unitholder) should indicate that person's capacity (following his or her signature) and should be accompanied by the appropriate instrument evidencing qualification and authority to act (unless such instrument has previously been filed with the REIT or Computershare).

How do I contact Killam's transfer agent?

Computershare is Killam's transfer agent. Computershare may be contacted by mail at 100 University Ave, 8th floor, Toronto, Ontario, M5J 2Y1; by telephone at: 1-800-564-6253; or by fax at: 1-866-249-7775.

Advice to Beneficial Unitholders

The information set forth in this section is of significant importance to many Unitholders as a substantial number of Unitholders do not hold their Units in their own name. Unitholders who do not hold their Units in their own name ("**Beneficial Unitholders**") should note that only proxies deposited by Unitholders whose names appear on the records of Killam as the registered holders of Units can be recognized and acted upon at the Meeting. If the Units are listed in an account statement provided to a Unitholder by a broker, then in almost all cases those Units will not be registered in the Unitholder's own name on the records of Killam. Such Units will more likely be registered in the name of the Unitholder's broker or an agent of that broker. In Canada, the vast majority of shares or units are registered in the name of CDS & Co. (the registration name for The Canadian Depositary for Securities Limited, which acts as nominee for many Canadian brokerage firms). Units held by brokers or their agents or nominees can only be voted (for or against resolutions) upon the instructions of the Beneficial Unitholder. Without specific

instructions, brokers and their agents and nominees are prohibited from voting Units for the brokers' clients. **Therefore, each Beneficial Unitholder should ensure that voting instructions are communicated to the appropriate person well in advance of the Meeting.**

Applicable regulatory policy requires brokers to seek voting instructions from Beneficial Unitholders in advance of Unitholders' meetings. Every broker has its own mailing procedures and provides its own return instructions to clients, which should be carefully followed by Beneficial Unitholders in order to ensure that their Units are voted at the Meeting. In certain cases, the form of proxy supplied to a Beneficial Unitholder by its broker (or the agent of the broker) is identical to the Proxy provided to registered Unitholders, however, its purpose is limited to instructing the registered Unitholder (*i.e.*, the broker or agent of the broker) how to vote on behalf of the Beneficial Unitholder. The majority of Canadian brokers now delegate responsibility for obtaining instructions from clients to Broadridge. Broadridge typically prepares a machine- readable voting instruction form, mails that form to the Beneficial Unitholders and asks Beneficial Unitholders to return the instruction forms to Broadridge. Alternatively, Beneficial Unitholders can either call Broadridge's toll-free telephone number to vote their Units or access Broadridge's dedicated voting website at www.proxyvotecanada.com to deliver their voting instructions. Broadridge then tabulates the results of all instructions received and provides instructions respecting the voting of Units to be represented at the Meeting. **A Beneficial Unitholder receiving a voting instruction form from Broadridge cannot use that form to vote Units directly at the Meeting – voting instructions must be provided to Broadridge (in accordance with the instructions set forth on the Broadridge form) well in advance of the Meeting in order to have the Units voted. If you have any questions respecting the voting of Units held through a broker or other intermediary, please contact that broker or other intermediary for assistance. Killam does not intend to pay for intermediaries to forward proxy-related materials to OBOs, and as a result, OBOs will not receive the materials unless the OBO's intermediary assumes the cost of delivery.**

Beneficial Unitholders fall into two categories – those who object to their identity being made known to the issuers of securities which they own ("**Objecting Beneficial Owners**", or "**OBOs**") and those who do not object to their identity being made known to the issuers of the securities they own ("**Non-Objecting Beneficial Owners**", or "**NOBOs**"). Subject to the provisions of NI 54-101 issuers may request and obtain a list of their NOBOs from intermediaries via their transfer agents. Pursuant to NI 54-101, issuers may obtain and use the NOBO list for distribution of proxy-related materials directly (not via Broadridge) to such NOBOs.

The REIT has decided to take advantage of the provisions of NI 54-101 that permit it to deliver proxy-related materials directly to its NOBOs. As a result, any NOBO of the REIT can expect to receive a scannable VIF from Computershare. Please complete and return the VIF to Computershare in the envelope provided. In addition, telephone voting and internet voting are available as further described in the VIF. Instructions in respect of the procedure for telephone and internet voting can be found in the VIF. Computershare will tabulate the results of the VIFs received from the REIT's NOBOs and will provide appropriate instructions at the Meeting with respect to the shares represented by the VIFs received by Computershare. The REIT's OBOs can expect to be contacted by Broadridge, their brokers or their broker's agents as set out above.

Although a Beneficial Unitholder may not be recognized directly at the Meeting for the purposes of voting Units registered in the name of his or her broker, a Beneficial Unitholder may attend the Meeting as proxyholder for the registered Unitholder and vote the Units in that capacity. **Beneficial Unitholders who wish to attend the Meeting and indirectly vote their Units as proxyholder for the registered Unitholder should enter their own names in the blank space on the form of proxy provided to them and return the same to their broker (or the broker's agent) in accordance with the instructions provided by such broker.**

Is my vote confidential?

Proxies are counted and tabulated by Computershare, the transfer agent of the REIT, and are not submitted to the Management unless a Unitholder clearly intends to communicate his or her comments to the REIT or legal requirements make it necessary. Unitholders wishing to maintain complete confidentiality of their holdings and their voting could register their Units in the name of a nominee.

How many votes are required to approve the Arrangement?

The Arrangement must be approved by not less than 66⅔% of the votes cast by REIT Unitholders and Special Voting Unitholders, voting together as a single class, either in person or by proxy at the Meeting, in accordance with the terms of the Declaration of Trust and the Interim Order.

How do I contact the REIT's transfer agent?

Computershare is the REIT's transfer agent. Computershare may be contacted by mail at 100 University Ave., 8th Floor, Toronto, Ontario, M5J 2Y1; by telephone at: 1-800-564-6253; or by fax at: 1-866-249-7775.

Authorized Capital, Voting Units and Principal Holders of Units

The REIT is an unincorporated, open-ended real estate investment trust formed under the laws of the Province of Ontario pursuant to the Declaration of Trust. The authorized capital of the REIT consists of an unlimited number of REIT Units and an unlimited number of Special Voting Units. Special Voting Units are only issued in tandem with the issuance of securities exchangeable into Units. As at the date of this Information Circular, 119,412,346 REIT Units and 3,898,020 Special Voting Units were issued and outstanding. A Unitholder is entitled to one vote in respect of each matter to be voted upon at the Meeting for each Unit registered in their name as at the close of business on the Record Date. Only Unitholders of record on the books of the REIT as at the close of business on the Record Date are entitled to receive notice of and vote at the Meeting.

To the knowledge of the Trustees and officers of Killam, as at the date of the Information Circular, no person or company beneficially owns, or controls or directs, directly or indirectly, Units or Special Voting Units carrying more than 10% of the voting rights of the REIT.

AUDITOR, TRANSFER AGENT AND REGISTRAR

The auditors of the REIT are Ernst & Young LLP, Chartered Professional Accountants, 1871 Hollis St., Suite 500, Halifax, Nova Scotia, B3J 0C3. Ernst & Young LLP has served as the auditor of Killam since June 26, 2000. Ernst & Young LLP have confirmed that they are independent with respect to Killam in the context of the CPA Code of Professional Conduct of the Chartered Professional Accountants of Nova Scotia.

The REIT's registrar and transfer agent is Computershare Investor Services Inc., located at 650 de Maisonneuve Blvd. W, 7th floor, Montreal, Quebec, H3A 3T2.

ADDITIONAL INFORMATION

Additional information relating to Killam is on SEDAR+ at www.sedarplus.ca. Information regarding the business of Killam is provided in the current Annual Information Form. Financial information is provided in Killam's Comparative Annual Financial Statements and Management's Discussion and Analysis for the year ended December 31, 2023, which are available on SEDAR+ at www.sedarplus.ca. Unitholders may obtain copies of these documents and additional copies of this Information Circular without charge by contacting Ms. Dale Noseworthy, CFO, at 3700 Kempt Road, Suite 100, Halifax, Nova Scotia, B3K 4X8 (email: dnoseworthy@killamreit.com, phone: (902) 442-0388).

**APPENDIX A
ARRANGEMENT RESOLUTION**

**FOR CONSIDERATION AT THE
SPECIAL MEETING OF UNITHOLDERS
OF KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST**

BE IT RESOLVED THAT:

1. The arrangement (the "**Arrangement**") under section 192 of the *Canada Business Corporations Act* (the "**CBCA**") involving, among others, Killam Apartment Real Estate Investment Trust (the "**REIT**") as more particularly described and set forth in the management information circular (the "**Information Circular**") of the REIT prepared in connection with the special meeting of holders of trust units of the REIT and holders of special voting units of the REIT (collectively, "**Unitholders**") to be held on November 21, 2024 (the "**Meeting**"), with such additions, deletions or modifications as may be approved by the board of trustees of the REIT (the "**Board**"), is hereby approved and authorized.
2. The plan of arrangement (the "**Plan of Arrangement**") involving, among others, the REIT, the full text of which is set out as Appendix E to the Information Circular, as may be amended, modified and supplemented in accordance with its terms, is hereby approved and authorized.
3. Notwithstanding that this resolution has been passed by the Unitholders or that the Arrangement has been approved by the Ontario Superior Court of Justice (Commercial List), the Board is hereby authorized, in their discretion and without the further approval of the Unitholders, to:
 - (a) amend, modify or supplement the Plan of Arrangement to the extent permitted under its terms and subject to the limit on the Board's discretion in that regard set forth in the Information Circular;
 - (b) determine the timing and arrange for the implementation of the Arrangement;
 - (c) decide not to proceed with the Arrangement at any time prior to the acceptance for filing by the director duly appointed under the CBCA of the articles of arrangement in respect of the Arrangement (the "**Articles of Arrangement**") or
 - (d) revoke this resolution before it is acted upon.
4. The amendments to the amended and restated declaration of trust of the REIT (the "**Declaration of Trust**") which are necessary or advisable to give effect to the Arrangement (which amendments will be reflected in an amended and restated Declaration of Trust substantially in the form attached as Schedule "A" to the Plan of Arrangement (the "**Amended and Restated Declaration of Trust**")) are authorized and approved with such additions, deletions or modifications as the Board may approve, in their discretion, such approval to be conclusively evidenced by the execution of the Amended and Restated Declaration of Trust, on behalf of the Board.
5. Any trustee or officer of the REIT is authorized to execute or cause to be executed and to deliver or cause to be delivered, all such documents, agreements and instruments (including, without limitation, the Articles of Arrangement or the Amended and Restated Declaration of Trust, and to do or cause to be done all such other acts and things as such trustee or officer shall determine to be necessary or desirable in order to carry out the intent of the foregoing resolutions and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of any such document, agreement or instrument by such person or the doing of any such act or thing.

APPENDIX B
INTERIM ORDER



Court File No. CV-24-00729300-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE

)

FRIDAY, THE 18TH

JUSTICE STEELE

)

DAY OF OCTOBER, 2024

)

IN THE MATTER OF an application under section 192 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended

AND IN THE MATTER OF an application under section 60 of the *Trustee Act*, R.S.O. 1990, c. T.23

AND IN THE MATTER OF an application under rules 14.05(2) and 14.05(3) of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended

AND IN THE MATTER OF a proposed arrangement involving Killam Apartment Real Estate Investment Trust, Killam Apartment Limited Partnership, Killam Properties Inc., 16430929 Canada Inc., Killam Apartment Subsidiary 2024 Limited Partnership and others

**KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST, KILLAM
APARTMENT LIMITED PARTNERSHIP, KILLAM PROPERTIES INC., 16430929
CANADA INC. AND KILLAM APARTMENT SUBSIDIARY 2024 LIMITED
PARTNERSHIP**

Applicants

INTERIM ORDER

THIS MOTION made by the Applicants, Killam Apartment Real Estate Investment Trust ("Killam"), Killam Apartment Limited Partnership ("Killam MLP"), Killam Properties Inc. ("KPI"), 16430929 Canada Inc. ("MFC") and Killam Apartment Subsidiary 2024 Limited Partnership ("New LP"), for an interim order for advice and directions pursuant to section 192 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "CBCA") and section 60 of the *Trustee Act*, R.S.O. 1990, c. T.23 was heard this day via videoconference.

ON READING the Notice of Motion, the Notice of Application and the affidavit of Philip D. Fraser sworn October 15, 2024 (the "Fraser Affidavit"), including the Plan of Arrangement, which is attached as Appendix E to the draft management information circular of Killam (the "Information Circular"), which is attached as Exhibit "A" to the Fraser Affidavit, and the Declaration of Trust of Killam dated November 27, 2015, which is attached as Exhibit "B" to the Fraser Affidavit (the "Declaration of Trust"), and on hearing the submissions of counsel for Killam, Killam MLP, KPI, MFC and New LP and on being advised that the Director appointed under the CBCA (the "Director") does not consider it necessary to appear,

Definitions

1. **THIS COURT ORDERS** that all capitalized terms used in this Interim Order shall have the meaning ascribed thereto in the Information Circular or otherwise as specifically defined herein.

The Meeting

2. **THIS COURT ORDERS** that Killam is permitted to call, hold and conduct a special meeting (the "Meeting") of:

- a) the holders (the "REIT Unitholders") of trust units in the capital of Killam ("REIT Units"), other than special voting units ("Special Voting Units", and together with REIT Units, the "Units"); and
- b) the holders (the "Special Voting Unitholders" and together with the REIT Unitholders, the "Unitholders") of Special Voting Units

to be held on November 21, 2024 in Halifax, Nova Scotia in order for the Unitholders, being the REIT Unitholders and the Special Voting Unitholders voting together as a single class, to

consider and, if determined advisable, pass a special resolution authorizing, adopting and approving, with or without variation, the Arrangement and the Plan of Arrangement (collectively, the "Arrangement Resolution").

3. **THIS COURT ORDERS** that the Meeting shall be called, held and conducted in accordance with the notice of meeting of Unitholders which accompanies the Information Circular (the "Notice of Meeting"), and the Declaration of Trust, subject to what may be provided hereafter and subject to further order of this court.

4. **THIS COURT ORDERS** that the record date (the "Record Date") for determination of the Unitholders entitled to notice of, and to vote at, the Meeting shall be the close of business on October 18, 2024.

5. **THIS COURT ORDERS** that the only persons entitled to attend or speak at the Meeting shall be:

- a) the Unitholders or their respective proxyholders;
- b) the officers, trustees, auditors and advisors of Killam;
- c) the Director; and
- d) other persons who may receive the permission of the Chair of the Meeting.

6. **THIS COURT ORDERS** that Killam may transact such other business at the Meeting as is contemplated in the Information Circular, or as may otherwise be properly before the Meeting.

Quorum

7. **THIS COURT ORDERS** that the Chair of the Meeting shall be determined by Killam and that the quorum at the Meeting shall consist of at least two individuals entitled to vote at the meeting, each of whom is a Unitholder or represented by proxy representing a Unitholder, and who hold or represent by proxy in aggregate not less than 25% of the total number of outstanding Units.

Amendments to the Arrangement and Plan of Arrangement

8. **THIS COURT ORDERS** that Killam is authorized to make, subject to paragraph 9, below, such amendments, modifications or supplements to the Arrangement and the Plan of Arrangement as it may determine without any additional notice to the Unitholders, or others entitled to receive notice under paragraphs 12 and 13 hereof, provided same are to correct clerical errors or are non-material and would not, if disclosed, reasonably be expected to affect a Unitholder's decision to vote, or are authorized by subsequent Court order, and the Arrangement and Plan of Arrangement, as so amended, modified or supplemented shall be the Arrangement and Plan of Arrangement to be submitted to the Unitholders at the Meeting and shall be the subject of the Arrangement Resolution. Amendments, modifications or supplements may be made following the Meeting, but shall be subject to review and, if appropriate, further direction by this Court at the hearing for the final approval of the Arrangement.

9. **THIS COURT ORDERS** that, if any amendments, modifications or supplements to the Arrangement or Plan of Arrangement are made after initial notice is provided as contemplated in paragraphs 12 and 13 herein, which would, if disclosed, reasonably be expected to affect a Unitholder's decision to vote for or against the Arrangement Resolution, notice of such amendment, modification or supplement shall be distributed, subject to further order of this

Court, by press release, newspaper advertisement, prepaid ordinary mail, or by the method most reasonably practicable in the circumstances, as Killam may determine.

Amendments to the Information Circular

10. **THIS COURT ORDERS** that Killam is authorized to make such amendments, revisions and/or supplements to the draft Information Circular as it may determine and the Information Circular, as so amended, revised and/or supplemented, shall be the Information Circular to be distributed in accordance with paragraphs 12 and 13.

Adjournments and Postponements

11. **THIS COURT ORDERS** that Killam, if it deems advisable, is specifically authorized to adjourn or postpone the Meeting on one or more occasions, without the necessity of first convening the Meeting or first obtaining any vote of the Unitholders respecting the adjournment or postponement and notice of any such adjournment or postponement shall be given by such method as Killam may determine is appropriate in the circumstances. This provision shall not limit the authority of the Chair of the Meeting in respect of adjournments and postponements.

Notice of Meeting

12. **THIS COURT ORDERS** that in order to effect notice of the Meeting, Killam shall send or cause to be sent the Information Circular (including the Notice of Application and this Interim Order), the Notice of Meeting and the form of proxy, along with such amendments or additional documents as Killam may determine are necessary or desirable and are not inconsistent with the terms of this Interim Order (collectively, the "Meeting Materials"), as follows:

- a) to the registered Unitholders at the close of business on the Record Date, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting, by one or more of the following methods:

- i) by pre-paid ordinary or first class mail at the addresses of the Unitholders as they appear on the books and records of Killam, or its registrar and transfer agent, at the close of business on the Record Date and if no address is shown therein, then the last address of the person known to the Corporate Secretary of Killam;
 - ii) by delivery, in person or by recognized courier service or inter-office mail to the address specified in (i) above; or
 - iii) by facsimile or electronic transmission to any Unitholder, who is identified to the satisfaction of Killam, who requests such transmission in writing and, if required by Killam;
- b) to non-registered Unitholders by providing sufficient copies of the Meeting Materials to intermediaries and registered nominees in a timely manner, in accordance with National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*; and
- c) to the trustees and auditors of Killam and to the Director, by delivery in person, by recognized courier service, by pre-paid ordinary or first class mail or, with the consent of the person, by email or other form of electronic transmission, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting,

and that compliance with this paragraph shall constitute sufficient notice of the Meeting.

13. **THIS COURT ORDERS** that Killam is hereby directed to distribute the Information Circular (including the Notice of Application, and this Interim Order) (collectively, the "Court Materials") to the holders of restricted trust units of Killam by any method permitted for notice to Unitholders as set forth in paragraphs 12(a) or 12(b), above, or by email, concurrently with the distribution described in paragraph 12 of this Interim Order (provided that delivery need only be made once notwithstanding that a person may be entitled to the Court Materials under more than one paragraph hereof). Unless distributed by inter-office mail, distribution to such persons shall be to their addresses as they appear on the books and records of Killam or its registrar and transfer agent at the close of business on the Record Date.

14. **THIS COURT ORDERS** that accidental failure or omission by Killam to give notice of the Meeting or to distribute the Meeting Materials or Court Materials to any person entitled by this Interim Order to receive notice, or any failure or omission to give such notice as a result of events beyond the reasonable control of Killam, or the non-receipt of such notice shall, subject to further order of this Court, not constitute a breach of this Interim Order nor shall it invalidate any resolution passed or proceedings taken at the Meeting. If any such failure or omission is brought to the attention of Killam, it shall use its best efforts to rectify it by the method and in the time most reasonably practicable in the circumstances.

15. **THIS COURT ORDERS** that Killam is hereby authorized to make such amendments, revisions or supplements to the Meeting Materials and Court Materials as Killam may determine ("Additional Information"), and that notice of such Additional Information may, subject to paragraph 9, above, be distributed by press release, newspaper advertisement, pre-paid ordinary mail, or by the method most reasonably practicable in the circumstances, as Killam may determine.

16. **THIS COURT ORDERS** that distribution of the Meeting Materials and Court Materials pursuant to paragraphs 12 and 13 of this Interim Order shall constitute notice of the Meeting and good and sufficient service of the within Application upon the persons described in paragraphs 12 and 13 and that those persons are bound by any orders made on the within Application. Further, no other form of service of the Meeting Materials or the Court Materials or any portion thereof need be made, or notice given or other material served in respect of these proceedings and/or the Meeting to such persons or to any other persons, except to the extent required by paragraph 9, above.

Solicitation and Revocation of Proxies

17. **THIS COURT ORDERS** that Killam is authorized to use the proxy substantially in the form of the draft accompanying the Information Circular, with such amendments and additional information as Killam may determine are necessary or desirable. Killam is authorized, at its expense, to solicit proxies, directly or through its officers, trustees or employees, and through such agents, representatives or other third parties as it may retain for that purpose, and by mail or such other forms of personal or electronic communication as it may determine. Killam may waive generally, in its discretion, the time limits set out in the Information Circular for the deposit or revocation of proxies by Unitholders, if Killam deems it advisable to do so.

18. **THIS COURT ORDERS** that Unitholders shall be entitled to revoke their proxies as set out in the Information Circular, or in any other manner permitted by law, including by delivering an instrument in writing, provided that such instrument: (a) be deposited at the registered office as set out in the Information Circular; and (b) must be received by Killam not later than the business day immediately preceding the Meeting (or any adjournment or postponement thereof).

Voting

19. **THIS COURT ORDERS** that the only persons entitled to vote in person or by proxy on the Arrangement Resolution, or such other business as may be properly brought before the Meeting, shall be those Unitholders who hold Units as of the close of business on the Record Date. Illegible votes, spoiled votes, defective votes and abstentions shall be deemed to be votes not cast. Proxies that are properly signed and dated but which do not contain voting instructions shall be voted in favour of the Arrangement Resolution.

20. **THIS COURT ORDERS** that votes shall be taken at the Meeting on the basis of one vote per Unit. In order for the Plan of Arrangement to be implemented, subject to further Order of this Court, the Arrangement Resolution must be passed, with or without variation, at the Meeting by an affirmative vote of at least two-thirds ($66\frac{2}{3}\%$) of the votes cast in respect of the Arrangement Resolution at the Meeting in person or by proxy by the Unitholders, voting together as a single class, provided that the votes of REIT Unitholders and Special Voting Unitholders shall be separately tabulated. Such votes shall be sufficient to authorize Killam to do all such acts and things as may be necessary or desirable to give effect to the Arrangement and the Plan of Arrangement on a basis consistent with what is provided for in the Information Circular without the necessity of any further approval by the Unitholders, subject only to final approval of the Arrangement by this Court.

21. **THIS COURT ORDERS** that in respect of matters properly brought before the Meeting pertaining to items of business affecting Killam (other than in respect of the Arrangement Resolution), each Unitholder is entitled to one vote for each Unit held.

Dissent Rights

22. **THIS COURT ORDERS** that each registered REIT Unitholder as at the Record Date shall be entitled to exercise Arrangement Dissent Rights in connection with the Arrangement Resolution in accordance with section 190 of the CBCA (except as the procedures of that section are varied by this Interim Order and the Plan of Arrangement), provided that, notwithstanding subsection 190(5) of the CBCA, any REIT Unitholder who wishes to dissent must, as a condition precedent thereto, provide the written objection to the Arrangement Resolution to Killam in the form required by section 190 of the CBCA, which written objection must be received by Killam not later than 5:00 p.m. (Halifax time) on the date that is two (2) business days immediately preceding the date of the Meeting (or any adjournment or postponement thereof), and must otherwise strictly comply with the requirements of the CBCA. For the purposes of these proceedings, the "court" referred to in section 190 of the CBCA means this Court, the "corporation" referred to in section 190 of the CBCA means Killam and the "shares" referred to in section 190 of the CBCA means REIT Units.

23. **THIS COURT ORDERS** that any REIT Unitholder who duly exercises such Arrangement Dissent Rights set out in paragraph 22 above and who:

- i) is ultimately determined by this Court to be entitled to be paid fair value for his, her or its REIT Units, shall be deemed to have transferred those REIT Units as of the Effective Time, without any further act or formality and free and clear of all liens, claims, encumbrances, charges, adverse interests or security interests to Killam for cancellation in consideration for a payment of cash from Killam equal to such fair value; or

- ii) is for any reason ultimately determined by this Court not to be entitled to be paid fair value for his, her or its REIT Units pursuant to the exercise of the Arrangement Dissent Right, shall be deemed to have participated in the Arrangement on the same basis and at the same time as any non-dissenting REIT Unitholder;

but in no case shall Killam or any other person be required to recognize such REIT Unitholders as holders of REIT Units at or after the date upon which the Arrangement becomes effective and the names of such REIT Unitholders shall be deleted from Killam's register of Unitholders at that time.

Hearing of Application for Approval of the Arrangement

24. **THIS COURT ORDERS** that upon approval by the Unitholders of the Plan of Arrangement in the manner set forth in this Interim Order, Killam may apply to this Court for final approval of the Arrangement.

25. **THIS COURT ORDERS** that distribution of the Notice of Application and the Interim Order in the Information Circular, when sent in accordance with paragraphs 12 and 13 shall constitute good and sufficient service of the Notice of Application and this Interim Order and no other form of service need be effected and no other material need be served unless a Notice of Appearance is served in accordance with paragraph 26.

26. **THIS COURT ORDERS** that any Notice of Appearance served in response to the Notice of Application shall be served on the solicitors for Killam, Killam MLP, KPI, MFC, and New LP as soon as reasonably practicable, and, in any event, no less than four (4) days before the hearing of this Application at the following address:

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Joseph N. Blinick (#64325B)
blinickj@bennettjones.com
Tel: (416) 777-4828

William A. Bortolin (#65426V)
bortolinw@bennettjones.com
Tel: (416) 777-6126

Lawyers for Killam, Killam MLP, KPI, MFC and New LP

27. **THIS COURT ORDERS** that, subject to further order of this Court, the only persons entitled to appear and be heard at the hearing of the within application shall be:

- i) Killam, Killam MLP, KPI, MFC and New LP;
- ii) the Director; and
- iii) any person who has filed a Notice of Appearance herein in accordance with the Notice of Application, this Interim Order and the *Rules of Civil Procedure*.

28. **THIS COURT ORDERS** that any materials to be filed by Killam, Killam MLP, KPI, MFC and New LP in support of the within Application for final approval of the Arrangement may be filed up to one day prior to the hearing of the Application without further order of this Court.

29. **THIS COURT ORDERS** that in the event the within Application for final approval does not proceed on the date set forth in the Notice of Application, and is adjourned, only those persons who served and filed a Notice of Appearance in accordance with paragraph 26 shall be entitled to be given notice of the adjourned date.

Service and Notice

30. THIS COURT ORDERS that the Applicants and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to Unitholders, creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

Precedence

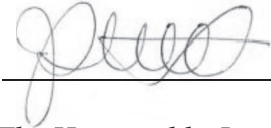
31. THIS COURT ORDERS that, to the extent of any inconsistency or discrepancy between this Interim Order and the terms of any instrument creating, governing or collateral to the Units or other rights to acquire securities of Killam, or the Declaration of Trust, this Interim Order shall govern.

Extra-Territorial Assistance

32. THIS COURT seeks and requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States or other country to act in aid of and to assist this Court in carrying out the terms of this Interim Order.

Variance

33. **THIS COURT ORDERS** that Killam shall be entitled to seek leave to vary this Interim Order upon such terms and upon the giving of such notice as this Court may direct.

A handwritten signature in black ink, appearing to read 'J. Steele', is written over a horizontal line.

The Honourable Justice Steele

**IN THE MATTER OF A PROPOSED ARRANGEMENT involving KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST,
KILLAM APARTMENT LIMITED PARTNERSHIP, KILLAM PROPERTIES INC., 16430929 CANADA INC., KILLAM APARTMENT
SUBSIDIARY 2024 LIMITED PARTNERSHIP and others**

Killam Apartment Real Estate Investment Trust, Killam Apartment Limited Partnership,
Killam Properties Inc., 16430929 Canada Inc. and Killam Apartment Subsidiary 2024
Limited Partnership
Applicants

	<p>ONTARIO</p> <p>SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</p> <p>Proceeding commenced at Toronto</p>
	<p>INTERIM ORDER (Plan of Arrangement)</p>
	<p>BENNETT JONES LLP 1 First Canadian Place Suite 3400 Toronto, ON M5X 1A4</p> <p>Joseph N. Blinick (#64325B) blinickj@bennettjones.com Tel: (416) 777-4828</p> <p>William A. Bortolin (#65426V) bortolinw@bennettjones.com Tel: (416) 777-6126</p> <p>Lawyers for the Applicants, Killam Apartment Real Estate Investment Trust, Killam Apartment Limited Partnership, Killam Properties Inc., 16430929 Canada Inc., and Killam Apartment Subsidiary 2024 Limited Partnership</p>

APPENDIX C
NOTICE OF APPLICATION FOR THE FINAL ORDER



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF an application under section 192 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended

AND IN THE MATTER OF an application under section 60 of the *Trustee Act*, R.S.O. 1990, c. T.23

AND IN THE MATTER OF an application under rules 14.05(2) and 14.05(3) of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended

AND IN THE MATTER OF a proposed arrangement involving Killam Apartment Real Estate Investment Trust, Killam Apartment Limited Partnership, Killam Properties Inc., 16430929 Canada Inc., Killam Apartment Subsidiary 2024 Limited Partnership and others

**KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST, KILLAM
APARTMENT LIMITED PARTNERSHIP, KILLAM PROPERTIES INC., 16430929
CANADA INC. AND KILLAM APARTMENT SUBSIDIARY 2024 LIMITED
PARTNERSHIP**

Applicants

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicants. The claim made by the Applicants appears on the following pages.

THIS APPLICATION will come on for a hearing

In person

By telephone conference

X By video conference

at a Zoom videoconference link to be circulated in advance of the hearing, on November 26, 2024, or such later date as the Court may direct, at 11:00 a.m., or as soon after that time as the application may be heard.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date October 11, 2024

Issued by _____

Local Registrar

Address of court office: 330 University Avenue, 9th Floor
Toronto, ON M5G 1R7

TO: ALL HOLDERS OF TRUST UNITS OF KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST

AND TO: ALL HOLDERS OF SPECIAL VOTING UNITS OF KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST

AND TO: ALL HOLDERS OF RESTRICTED TRUST UNITS OF KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST

AND TO: THE DIRECTOR UNDER THE *CANADA BUSINESS CORPORATIONS ACT*
Corporations Canada
Innovations, Science and Economic Development Canada
C.D. Howe Building
235 Queen Street
Ottawa, ON K1A 0H5

APPLICATION

1. The Applicants, Killam Apartment Real Estate Investment Trust ("**Killam**"), Killam Apartment Limited Partnership ("**Killam MLP**"), Killam Properties Inc. ("**KPI**"), 16430929 Canada Inc. ("**MFC**") and Killam Apartment Subsidiary 2024 Limited Partnership ("**New LP**"), make application for:

- (a) an order pursuant to section 192 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "**CBCA**"), approving a proposed arrangement (the "**Arrangement**") implementing a plan of arrangement (the "**Plan of Arrangement**") involving Killam, Killam MLP, KPI, MFC, New LP and others;
- (b) an interim order (the "**Interim Order**") for advice and directions pursuant to section 192(4) of the CBCA and section 60 of the *Trustee Act*, R.S.O. 1990, c. T.23 with respect to the Arrangement and this Application, including permitting Killam to call, hold and conduct a special meeting (the "**Meeting**") of the holders (the "**Unitholders**") of Killam trust units ("**REIT Units**") and special voting units ("**Special Voting Units**" and together with REIT Units, "**Units**"), in order to, among other things, consider and, if determined advisable, pass a special resolution authorizing, adopting and approving, with or without variation, the Arrangement and the Plan of Arrangement;
- (c) an order abridging the time for the service and filing of this Notice of Application and the Application Record, and validating such service or dispensing with service, if necessary;

- (d) such further orders or directions as are required for the administration of the Arrangement; and
- (e) such further and other relief as this Honourable Court may deem just.

2. The grounds for the application are:

- (a) the applicant, Killam, is a real estate investment trust formed under the laws of Ontario pursuant to a Declaration of Trust dated November 27, 2015 (the "**Declaration of Trust**"). Killam is one of Canada's largest real estate investment trusts, owning, operating and developing a multi-billion-dollar portfolio of apartments and manufactured home communities. The REIT Units are listed for trading on the Toronto Stock Exchange ("**TSX**") under the symbol "KMP.UN";
- (b) the applicant, Killam MLP, is a limited partnership formed under the laws of Ontario, pursuant to a limited partnership agreement dated October 28, 2015. Killam is the sole holder of the Class A limited partnership units issued by Killam MLP, which are the only class of limited partnership units of Killam MLP entitled to vote. Killam is also the sole shareholder of Killam's general partner, Killam Apartment General Partner Ltd., a corporation formed under the *Business Corporations Act* (Ontario). Killam MLP also has outstanding 3,898,020 Class B limited partnership units, which are non-voting units. Accordingly, Killam MLP is wholly controlled by Killam;
- (c) the applicant, KPI, is a corporation amalgamated under the CBCA, which is extra-provincially registered in Ontario (amongst other provinces). KPI is a wholly-

owned subsidiary of Killam MLP. Killam holds a portion of properties indirectly through KPI;

- (d) the applicant, MFC, is a corporation incorporated under the CBCA on October 9, 2024, solely for the purpose of facilitating the transactions contemplated by the Arrangement;
- (e) the applicant, New LP, is a limited partnership formed under the laws of Ontario pursuant to a limited partnership agreement dated October 10, 2024 (the "New LP Agreement"). New LP was formed solely for the purpose of facilitating the transactions contemplated by the Arrangement. KPI is the sole limited partner of New LP. Killam MLP is the sole shareholder of the general partner of New LP, Killam Properties SGP Ltd.;
- (f) the purpose of the Arrangement is to simplify Killam's organizational structure by eliminating KPI, so that Killam MLP holds its entire investment in Killam Subsidiary Limited Partnership ("**Killam SLP**") directly, rather than partially through KPI. The Arrangement is expected to reduce or eliminate potential corporate taxation in respect of income and capital gains allocated to KPI, thereby increasing cash flow for distribution to Killam. The Arrangement is also expected to reduce the complexity of accounting and legal reporting and income tax compliance inherent in the existing structure;
- (g) REIT Units are subject to certain steps of the Plan of Arrangement, and will be issued as a result of certain steps of the Plan of Arrangement. However, the holders

of REIT Units will continue to hold the same number and percentage of REIT Units before and after the implementation of the Arrangement;

- (h) Special Voting Units are not subject to any steps of the Plan of Arrangement and will remain outstanding following the implementation of the Arrangement;
- (i) all statutory requirements for arrangement under the CBCA either have been or will be fulfilled by the return date of this Application. In particular:
 - (i) the Arrangement is an "arrangement" within the meaning of subsection 192(1) of the CBCA, including paragraphs (c) and (f) thereof, involving KPI and MFC, each a CBCA corporation;
 - (ii) it is not practicable to effect a fundamental change in the nature of the Arrangement under any provision of the CBCA other than section 192; and
 - (iii) none of Killam, Killam MLP, KPI, MFC or New LP will be insolvent at the time of the Arrangement or at any other material time;
- (j) the Arrangement, and the pre- and post-Arrangement steps to be undertaken in connection with the Arrangement, are permitted under the Declaration of Trust and the governing documents of Killam MLP, KPI, MFC and New LP;
- (k) the directions set out and the approvals required pursuant to any Interim Order of this Court will be followed and obtained by the return date of this Application;
- (l) the Arrangement:

- (i) is in the best interests of the Applicants and their respective Unitholders, shareholders, and other affected stakeholders (as applicable);
 - (ii) is procedurally and substantially fair and reasonable; and
 - (iii) is put forward in good faith and for a *bona fide* business purpose;
- (m) this Application has a material connection to the Toronto Region in that, among other things: (i) Killam exists under the laws of Ontario; (ii) Killam was formed in connection with a plan arrangement approved by the Ontario Superior Court of Justice (Commercial List); (iii) the REIT Units are traded on the TSX; (iv) Killam MLP and New LP are formed under the laws of Ontario; and (v) KPI is extra-provincially registered in Ontario;
- (n) if granted, the final order approving the Arrangement will serve as a basis of a claim to an exemption from the registration requirements of section 3(a)(10) of the *Securities Act of 1933*, as amended, of the United States of America with respect to the securities to be issued, exchanged and/or distributed pursuant to the terms of the Plan of Arrangement;
- (o) the CBCA, including section 192 thereof;
- (p) the *Trustee Act*, including 60 thereof;
- (q) National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*;

- (r) the *Rules of Civil Procedure*, including rules 1.04, 1.05, 2.03, 3.02, 14.05(2), 14.05(3), 16.04, 16.08, 17.02, 37, 38 and 39; and
 - (s) such further and other grounds as counsel may advise and this Honourable Court may permit.
3. The following documentary evidence will be used at the hearing of the application:
- (a) an affidavit of a representative of Killam, Killam MLP, KPI, MFC, and New LP and the exhibits thereto, outlining the basis for the Interim Order for advice and directions;
 - (b) further affidavit(s), with the exhibits thereto, outlining the basis for the final order approving the Arrangement, and reporting as to compliance with the Interim Order and the results of the Meeting conducted pursuant to the Interim Order; and
 - (c) such further and other material as counsel may advise and this Honourable Court may permit.

October 11, 2024

BENNETT JONES LLP

1 First Canadian Place
Suite 3400
Toronto, ON M5X 1A4

Joseph N. Blinick (#64325B)

blinickj@bennettjones.com
Tel: (416) 777-4828

William A. Bortolin (#65426V)

bortolinw@bennettjones.com
Tel: (416) 777-6126

Lawyers for the Applicants, Killam Apartment Real
Estate Investment Trust, Killam Apartment Limited
Partnership, Killam Properties Inc., 16430929
Canada Inc., and Killam Apartment Subsidiary 2024
Limited Partnership

**IN THE MATTER OF A PROPOSED ARRANGEMENT involving KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST,
KILLAM APARTMENT LIMITED PARTNERSHIP, KILLAM PROPERTIES INC., 16430929 CANADA INC., KILLAM APARTMENT
SUBSIDIARY 2024 LIMITED PARTNERSHIP and others**

Killam Apartment Real Estate Investment Trust, Killam Apartment Limited Partnership,
Killam Properties Inc., 16430929 Canada Inc. and Killam Apartment Subsidiary 2024
Limited Partnership
Applicants

ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at Toronto	
NOTICE OF APPLICATION (Plan of Arrangement)	
BENNETT JONES LLP 1 First Canadian Place Suite 3400 Toronto, ON M5X 1A4 Joseph N. Blinick (#64325B) blinickj@bennettjones.com Tel: (416) 777-4828 William A. Bortolin (#65426V) bortolinw@bennettjones.com Tel: (416) 777-6126 Lawyers for the Applicants, Killam Apartment Real Estate Investment Trust, Killam Apartment Limited Partnership, Killam Properties Inc., 16430929 Canada Inc. and Killam Apartment Subsidiary 2024 Limited Partnership	

APPENDIX D
SECTION 190 OF THE *CANADA BUSINESS CORPORATIONS ACT*

Right to Dissent

- 190 (1) Subject to sections 191 and 241, a holder of shares of any class of a corporation may dissent if the corporation is subject to an order under paragraph 192(4)(d) that affects the holder or if the corporation resolves to
- (a) amend its articles under section 173 or 174 to add, change or remove any provisions restricting or constraining the issue, transfer or ownership of shares of that class;
 - (b) amend its articles under section 173 to add, change or remove any restriction on the business or businesses that the corporation may carry on;
 - (c) amalgamate otherwise than under section 184;
 - (d) be continued under section 188;
 - (e) sell, lease or exchange all or substantially all its property under subsection 189(3); or
 - (f) carry out a going-private transaction or a squeeze-out transaction.

Further right

- (2) A holder of shares of any class or series of shares entitled to vote under section 176 may dissent if the corporation resolves to amend its articles in a manner described in that section.

If one class of shares

- (2.1) The right to dissent described in subsection (2) applies even if there is only one class of shares.

Payment for shares

- (3) In addition to any other right the shareholder may have, but subject to subsection (26), a shareholder who complies with this section is entitled, when the action approved by the resolution from which the shareholder dissents or an order made under subsection 192(4) becomes effective, to be paid by the corporation the fair value of the shares in respect of which the shareholder dissents, determined as of the close of business on the day before the resolution was adopted or the order was made.

No partial dissent

- (4) A dissenting shareholder may only claim under this section with respect to all the shares of a class held on behalf of any one beneficial owner and registered in the name of the dissenting shareholder.

Objection

- (5) A dissenting shareholder shall send to the corporation, at or before any meeting of shareholders at which a resolution referred to in subsection (1) or (2) is to be voted on, a written objection to the resolution, unless the corporation did not give notice to the shareholder of the purpose of the meeting and of their right to dissent.

Notice of resolution

- (6) The corporation shall, within ten days after the shareholders adopt the resolution, send to each shareholder who has filed the objection referred to in subsection (5) notice that the resolution has been adopted, but such

notice is not required to be sent to any shareholder who voted for the resolution or who has withdrawn their objection.

Demand for payment

- (7) A dissenting shareholder shall, within twenty days after receiving a notice under subsection (6) or, if the shareholder does not receive such notice, within twenty days after learning that the resolution has been adopted, send to the corporation a written notice containing
- (a) the shareholder's name and address;
 - (b) the number and class of shares in respect of which the shareholder dissents; and
 - (c) a demand for payment of the fair value of such shares.

Share certificate

- (8) A dissenting shareholder shall, within thirty days after sending a notice under subsection (7), send the certificates representing the shares in respect of which the shareholder dissents to the corporation or its transfer agent.

Forfeiture

- (9) A dissenting shareholder who fails to comply with subsection (8) has no right to make a claim under this section.

Endorsing certificate

- (10) A corporation or its transfer agent shall endorse on any share certificate received under subsection (8) a notice that the holder is a dissenting shareholder under this section and shall forthwith return the share certificates to the dissenting shareholder.

Suspension of rights

- (11) On sending a notice under subsection (7), a dissenting shareholder ceases to have any rights as a shareholder other than to be paid the fair value of their shares as determined under this section except where
- (a) the shareholder withdraws that notice before the corporation makes an offer under subsection (12),
 - (b) the corporation fails to make an offer in accordance with subsection (12) and the shareholder withdraws the notice, or
 - (c) the directors revoke a resolution to amend the articles under subsection 173(2) or 174(5), terminate an amalgamation agreement under subsection 183(6) or an application for continuance under subsection 188(6), or abandon a sale, lease or exchange under subsection 189(9),

in which case the shareholder's rights are reinstated as of the date the notice was sent.

Offer to pay

- (12) A corporation shall, not later than seven days after the later of the day on which the action approved by the resolution is effective or the day the corporation received the notice referred to in subsection (7), send to each dissenting shareholder who has sent such notice

(a) a written offer to pay for their shares in an amount considered by the directors of the corporation to be the fair value, accompanied by a statement showing how the fair value was determined; or

(b) if subsection (26) applies, a notification that it is unable lawfully to pay dissenting shareholders for their shares.

Same terms

(13) Every offer made under subsection (12) for shares of the same class or series shall be on the same terms.

Payment

(14) Subject to subsection (26), a corporation shall pay for the shares of a dissenting shareholder within ten days after an offer made under subsection (12) has been accepted, but any such offer lapses if the corporation does not receive an acceptance thereof within thirty days after the offer has been made.

Corporation may apply to court

(15) Where a corporation fails to make an offer under subsection (12), or if a dissenting shareholder fails to accept an offer, the corporation may, within fifty days after the action approved by the resolution is effective or within such further period as a court may allow, apply to a court to fix a fair value for the shares of any dissenting shareholder.

Shareholder application to court

(16) If a corporation fails to apply to a court under subsection (15), a dissenting shareholder may apply to a court for the same purpose within a further period of twenty days or within such further period as a court may allow.

Venue

(17) An application under subsection (15) or (16) shall be made to a court having jurisdiction in the place where the corporation has its registered office or in the province where the dissenting shareholder resides if the corporation carries on business in that province.

No security for costs

(18) A dissenting shareholder is not required to give security for costs in an application made under subsection (15) or (16).

Parties

(19) On an application to a court under subsection (15) or (16),

(a) all dissenting shareholders whose shares have not been purchased by the corporation shall be joined as parties and are bound by the decision of the court; and

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

Powers of court

(20) On an application to a court under subsection (15) or (16), the court may determine whether any other person is a dissenting shareholder who should be joined as a party, and the court shall then fix a fair value for the shares of all dissenting shareholders.

Appraisers

- (21) A court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the shares of the dissenting shareholders.

Final order

- (22) The final order of a court shall be rendered against the corporation in favour of each dissenting shareholder and for the amount of the shares as fixed by the court.

Interest

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

Notice that subsection (26) applies

- (24) If subsection (26) applies, the corporation shall, within ten days after the pronouncement of an order under subsection (22), notify each dissenting shareholder that it is unable lawfully to pay dissenting shareholders for their shares.

Effect where subsection (26) applies

- (25) If subsection (26) applies, a dissenting shareholder, by written notice delivered to the corporation within thirty days after receiving a notice under subsection (24), may
- (a) withdraw their notice of dissent, in which case the corporation is deemed to consent to the withdrawal and the shareholder is reinstated to their full rights as a shareholder; or
 - (b) retain a status as a claimant against the corporation, to be paid as soon as the corporation is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the corporation but in priority to its shareholders.

Limitation

- (26) A corporation shall not make a payment to a dissenting shareholder under this section if there are reasonable grounds for believing that
- (a) the corporation is or would after the payment be unable to pay its liabilities as they become due; or
 - (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities.

APPENDIX E
PLAN OF ARRANGEMENT

**PLAN OF ARRANGEMENT MADE PURSUANT TO SECTION 192 OF THE CANADA BUSINESS
CORPORATIONS ACT INVOLVING, AMONG OTHERS, KILLAM APARTMENT REAL ESTATE
INVESTMENT TRUST, KILLAM PROPERTIES INC., KILLAM APARTMENT LIMITED
PARTNERSHIP, 16430929 CANADA INC., KILLAM APARTMENT SUBSIDIARY 2024 LIMITED
PARTNERSHIP AND THE HOLDERS OF TRUST UNITS OF KILLAM APARTMENT REAL ESTATE
INVESTMENT TRUST**

TABLE OF CONTENTS

ARTICLE 1 INTERPRETATION.....	E-4
1.1 Definitions	E-4
1.2 Certain Rules of Interpretation	E-7
1.3 Schedules	E-8
ARTICLE 2 EFFECT OF THE ARRANGEMENT	E-8
2.1 Effectiveness.....	E-8
ARTICLE 3 ARRANGEMENT	E-8
3.1 Events Occurring Within the Plan	E-8
3.2 Tax Elections	E-10
3.3 Withholding Rights.....	E-11
ARTICLE 4 STATED CAPITAL ADDITIONS.....	E-11
4.1 Additions to Stated Capital	E-11
ARTICLE 5 DISTRIBUTION AND REDEMPTION OF CLASS A SHARES AND CLASS B SHARES ...	E-12
5.1 Evidence of Ownership of the Class A Shares and Class B Shares.....	E-12
5.2 Redemption of Class A Shares and Class B Shares.....	E-12
ARTICLE 6 DISSENTING UNITHOLDERS	E-12
6.1 Dissenting Unitholders	E-12
ARTICLE 7 ISSUANCE OF CERTIFICATES.....	E-13
7.1 Depository	E-13
ARTICLE 8.....	E-13
FURTHER ASSURANCES	E-13
8.1 Further Assurances	E-13
ARTICLE 9 AMENDMENTS.....	E-13
9.1 Amendments.....	E-13
9.2 Effectiveness of Amendments Made Prior to or at the Meeting	E-13
9.3 Effectiveness of Amendments Made Following the Meeting	E-14
SCHEDULE "A"	E-A-1
SCHEDULE "B"	E-B-1

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Plan of Arrangement including the Schedules attached hereto, the following terms shall have the following respective meanings:

- (a) **"Amended and Restated Declaration of Trust"** means the amended and restated Declaration of Trust of Killam REIT substantially in the form attached to this Plan as Schedule "A" that has terms and conditions respecting, among other things (i) the Special Units, (ii) the Right of Renunciation, and (iii) the ability of Killam REIT to pay distributions *in specie* in any manner including securities of a subsidiary of Killam REIT;
- (b) **"Arrangement"** means the arrangement under Section 192 of the CBCA described in this Plan of Arrangement involving Killam REIT, the Unitholders, Killam MLP, KPI, Killam MFC, New LP and certain wholly-owned subsidiaries of the foregoing and, following the amalgamation of KPI and Killam MFC, Killam Amalco MFC;
- (c) **"Arrangement Dissent Rights"** means the right of dissent provided for in the Interim Order and this Plan of Arrangement and available to REIT Unitholders in connection with the Arrangement;
- (d) **"Arrangement Resolution"** means the special resolution of the REIT Unitholders and Special Voting Unitholders, voting together as a single class, substantially in the form attached as Appendix A to the Information Circular;
- (e) **"Articles of Arrangement"** means the articles of arrangement in respect of the Arrangement required under Section 192(6) of the CBCA to be sent to the Director appointed under section 260 of the CBCA;
- (f) **"Business Day"** means a day, which is not a Saturday, Sunday or statutory holiday in the Provinces of Nova Scotia or Ontario;
- (g) **"CBCA"** means the *Canada Business Corporations Act*, RSC 1985, c. C-44, as amended;
- (h) **"Certificate of Arrangement"** means the certificate or proof of filing of the Articles of Arrangement to be issued pursuant to Section 192(7) of the CBCA;
- (i) **"Class A Redemption Amount"** means the aggregate redemption price for which either Killam MFC or Killam Amalco MFC, as the case may be, can, at its election, redeem the outstanding Class A Shares. In this Plan of Arrangement, the Class A Redemption Amount is in the aggregate: (i) \$0.01 plus the amount of all declared but unpaid dividends on each outstanding Class A Share immediately prior to the time of redemption, multiplied by (ii) the number of Class A Shares outstanding immediately prior to the time of redemption. The Class A Redemption Amount may be paid in REIT Units;
- (j) **"Class A Shares"** means Class A Preferred Shares in the capital of Killam MFC. Following the amalgamation of Killam MFC and KPI pursuant to Section 3.1(h) of this Plan of Arrangement, **"Class A Shares"** means the Class A Preferred Shares in the capital of Killam Amalco MFC;
- (k) **"Class B Redemption Amount"** means the aggregate redemption price for which either Killam MFC or Killam Amalco MFC, as the case may be, can, at its election, redeem the outstanding Class B Shares. In this Plan of Arrangement, the Class B Redemption Amount is in the aggregate, an amount equal to the aggregate fair market value of the KPI Shares, the Killam REIT IB Note and the Killam MLP IB Note, at the time of their transfer by Killam MLP to Killam MFC in

consideration for Class B Shares pursuant to Section 3.1(g) of this Plan of Arrangement, plus the aggregate amount of all declared but unpaid dividends on the Class B Shares outstanding immediately prior to the time of redemption. The Class B Redemption Amount may be paid in Special Units;

- (l) **"Class B Shares"** means the Class B Preferred Shares in the capital of Killam MFC. Following the amalgamation of Killam MFC and KPI pursuant to Section 3.1(h) of this Plan of Arrangement, **"Class B Shares"** means the Class B Preferred Shares in the capital of Killam Amalco MFC;
- (m) **"Court"** means the Ontario Superior Court of Justice;
- (n) **"CRA"** means the Canada Revenue Agency;
- (o) **"Declaration of Trust"** means the amended and restated declaration of trust dated November 27, 2015, pursuant to which Killam REIT was formed;
- (p) **"Depository"** means Computershare Trust Company of Canada as the registrar and transfer agent of the REIT Units;
- (q) **"Director"** means the Director appointed under Section 260 of the CBCA;
- (r) **"Dissenting Unitholder"** means any registered REIT Unitholder who has duly and validly exercised his, her or its Arrangement Dissent Rights in compliance with section 190 of the CBCA, the Interim Order and Article 6 hereof, and who does not, prior to the time at which the Arrangement Resolution is approved, withdraw or otherwise relinquish his, her or its Arrangement Dissent Rights;
- (s) **"Dissenting Units"** means the REIT Units held by a Dissenting Unitholder;
- (t) **"Effective Date"** means the date shown on the Certificate of Arrangement;
- (u) **"Effective Time"** means the time on the Effective Date at which the Arrangement becomes effective in accordance with the CBCA which shall be 12:01 a.m. (Eastern time);
- (v) **"Exchangeable LP Units"** means Class B limited partnership units of Killam MLP;
- (w) **"Exchangeable LP Unitholder"** means a holder of Exchangeable LP Units;
- (x) **"Information Circular"** means, collectively, the Notice of Special Meeting and Information Circular of Killam REIT dated October 18, 2024, prepared in connection with the Arrangement;
- (y) **"Interim Order"** means the order of the Court expected to be dated on or about October 18, 2024, confirming, among other things, the calling and holding of the Meeting and the voting thereat, as such order may be amended or varied;
- (z) **"Killam Amalco MFC"** means the corporation existing under the laws of Canada that will be formed from the amalgamation of KPI and Killam MFC pursuant to Section 3.1(h) of this Plan of Arrangement;
- (aa) **"Killam Amalco MFC Transfer Time"** has the meaning ascribed thereto in Section 3.1(i);
- (bb) **"Killam GP I"** means the general partner of Killam MLP, being Killam Apartment General Partner Ltd., a corporation formed under the OBCA, and any successor thereto;
- (cc) **"Killam MFC"** means 16430929 Canada Inc., a corporation existing under the laws of Canada;

- (dd) **"Killam MLP"** means Killam Apartment Limited Partnership, a limited partnership formed by a limited partnership agreement dated October 28, 2015;
- (ee) **"Killam MLP IB Note"** means the unsecured promissory note issued by KPI to Killam MLP bearing interest at 4.5% per annum with a principal amount at the Effective Time of \$361,977,464;
- (ff) **"Killam REIT"** means Killam Apartment Real Estate Investment Trust, an unincorporated open-ended trust established under the laws of the Province of Ontario pursuant to the Declaration of Trust;
- (gg) **"Killam REIT IB Note"** means the unsecured promissory note issued by KPI to Killam REIT bearing interest at 5.83% per annum with a principal amount at the Effective Time of \$101,304,329;
- (hh) **"KPI"** means Killam Properties Inc., a corporation existing under the laws of Canada,
- (ii) **"KPI Shares"** means all the issued and outstanding common shares in the capital of KPI;
- (jj) **"Meeting"** means the special meeting of Unitholders to be held on November 21, 2024 including any adjournment(s) or postponement(s) thereof, to consider and to vote upon, among other things, the Arrangement Resolution;
- (kk) **"New LP"** means Killam Apartment Subsidiary 2024 Limited Partnership, a limited partnership formed by a limited partnership agreement dated October 10, 2024;
- (ll) **"New LP Limited Partner Units"** means the limited partner units of New LP;
- (mm) **"New LP Note"** means the unsecured non-interest-bearing demand promissory note issued by New LP to KPI;
- (nn) **"Non-Resident"** means a person who is a "non-resident" within the meaning of the Tax Act and a partnership other than a Canadian partnership for the purposes of the Tax Act;
- (oo) **"OBCA"** means the *Business Corporations Act* (Ontario), RSO 1990, c B.16, as amended;
- (pp) **"Participating Unitholders"** means all of the REIT Unitholders immediately prior to the Effective Time other than any Dissenting Unitholders;
- (qq) **"Parties"** means Killam REIT, Killam MFC, Killam MLP, KPI, and New LP and **"Party"** means any one of them, as the case may be;
- (rr) **"Person"** means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;
- (ss) **"Plan of Arrangement"** or **"Plan"** means this plan of arrangement and any amendment or variation made in accordance with the terms hereof;
- (tt) **"Purchase Price"** means, at the time immediately before the transfers in Section 3.1(g), the aggregate fair market value of: (i) the KPI Shares, (ii) the Killam REIT IB Note, and (iii) the Killam MLP IB Note;
- (uu) **"REIT Unit"** means a trust unit of Killam REIT, other than a Special Voting Unit or Special Unit;
- (vv) **"REIT Unitholder"** means a holder of REIT Units;

- (ww) **"Renunciation Notice"** means the written notice of renunciation delivered by Killam MLP to Killam REIT pursuant to which, among other things, Killam MLP shall exercise its Right of Renunciation;
- (xx) **"Right of Renunciation"** means the right which permits a subsidiary of Killam REIT to renounce, release and surrender, for no consideration, all rights and benefits in and to the Special Units by delivering a written notice of renunciation to Killam REIT, in accordance with the Amended and Restated Declaration of Trust;
- (yy) **"Share Registries"** has the meaning ascribed to it in Section 5.1 hereof;
- (zz) **"Special Unit"** means a special unit of Killam REIT with preferential attributes set out in the Amended and Restated Declaration of Trust and, in this Plan of Arrangement, that has a per Special Unit redemption value equal to the quotient obtained when the Purchase Price is divided by one hundred (100);
- (aaa) **"Special Voting Units"** means a special voting unit of Killam REIT;
- (bbb) **"Special Voting Unitholder"** means a holder of Special Voting Unit;
- (ccc) **"Tax Act"** means the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.), as amended;
- (ddd) **"TSX"** means the Toronto Stock Exchange;
- (eee) **"Units"** means, together, the REIT Units and the Special Voting Units; and
- (fff) **"Unitholder"** means a holder of Units.

1.2 Certain Rules of Interpretation

In this Plan:

- (a) *Currency* - Unless otherwise specified, all references to money amounts are to the lawful currency of Canada.
- (b) *Headings* - Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Plan.
- (c) *Including* - Where the word "including" or "includes" is used in this Plan, it means "including (or includes) without limitation".
- (d) *Number and Gender* - Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (e) *Statutory References* - A reference to a statute includes all regulations made pursuant to such statute and, unless otherwise specified, the provisions of any statute or regulation which amends, supplements or supersedes any such statute or any such regulation.
- (f) *Time Periods* - Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

1.3 Schedules

The Schedules to this Plan, as listed below, are an integral part of this Plan of Arrangement:

Schedule "A" - Amended and Restated Declaration of Trust

Schedule "B" - Amalgamation Provisions

ARTICLE 2 EFFECT OF THE ARRANGEMENT

2.1 Effectiveness

The provisions of this Plan of Arrangement shall become effective as follows:

- (a) Upon the filing of the Articles of Arrangement and the issuance of the Certificate of Arrangement, Sections 3.1(a) to 3.1(p) of the Arrangement will become effective in the sequence and at the times provided herein.
- (b) The Certificate of Arrangement shall be conclusive evidence that the Arrangement has become effective and that each of the steps, events or transactions set out in Section 3.1 have become effective in the sequence and at the times provided herein.
- (c) The Arrangement, upon the filing of the Articles of Arrangement and the issue of the Certificate of Arrangement shall without any further authorization, act or formality become effective at the Effective Time, and shall be binding on Killam REIT, Unitholders, KPI, Killam MLP, Killam MFC, Killam Amalco MFC (after the amalgamation in Section 3.1(h)), New LP, and all other Persons, at and after the Effective Time, without any further act or formality required on the part of any Person.

ARTICLE 3 ARRANGEMENT

3.1 Events Occurring Within the Plan

Commencing at the Effective Time, each of the events set out below shall occur and shall be deemed to occur, except as otherwise expressly noted, one (1) minute apart and in the following order, without any further authorization, act or formality:

Amended and Restated Declaration of Trust Becomes Effective

- (a) The Amended and Restated Declaration of Trust shall become effective;

Exercise of Dissent Rights

- (b) The Dissenting Units held by Dissenting Unitholders shall be deemed to have been transferred to Killam REIT (free of any claims) and cancelled and such Dissenting Unitholders shall cease to have any rights as REIT Unitholders other than the right to be paid the fair value of their Dissenting Units in accordance with Article 6;

Contribution of Killam REIT IB Note to Killam MLP and Partial Repayment of the Killam MLP IB Note and/or the Killam REIT IB Note

- (c) Killam REIT shall transfer and contribute to Killam MLP as a partnership capital contribution (and not as a loan or an advance) the Killam REIT IB Note and Killam MLP shall increase the capital account maintained for Killam REIT by the principal amount of the Killam REIT IB Note;

- (d) KPI shall transfer the New LP Note to Killam MLP in full or partial repayment, as the case may be, of the principal amount owing pursuant to the Killam MLP IB Note and, if any excess amount under the New LP Note remains, in full or partial repayment, as the case may be, of the principal amount owing under the Killam REIT IB Note;

Killam MFC Share Subscription and Share Distribution

- (e) Killam REIT shall subscribe for that number of Class A Shares that is equal to the number of issued and outstanding REIT Units held by Participating Unitholders immediately prior to the Effective Time (less the number of Class A Shares issued and outstanding immediately prior to the Effective Time) in consideration for a cash payment of \$0.01 per Class A Share;
- (f) Killam REIT shall undertake a return of capital in respect of the REIT Units as follows:
 - (i) Killam REIT shall distribute that number of Class A Shares to each Participating Unitholder equal to the number of REIT Units held by the Participating Unitholder as of the time immediately prior to the Effective Time; and
 - (ii) Killam REIT shall immediately remit to the Receiver General for Canada, on behalf of each Participating Unitholder that is a Non-Resident, an amount equal to the amount required by the Tax Act to be withheld on behalf of the Participating Unitholder (taking into account the amount so remitted on behalf of that Unitholder) in respect of the return of capital, including amounts required to be withheld under subsection 218.3(2) of the Tax Act;

Transfer of KPI Shares, Killam REIT IB Note and Killam MLP IB Note by Killam MLP to Killam MFC for Class B Shares

- (g) Killam MLP shall transfer the KPI Shares, the remaining principal amount of the Killam REIT IB Note and the remaining principal amount, if any, of the Killam MLP IB Note to Killam MFC for an amount equal to the Purchase Price and Killam MFC shall satisfy the Purchase Price by issuing to Killam MLP one hundred (100) Class B Shares that have an aggregate redemption value equal to the Class B Redemption Amount;

Amalgamation of Killam MFC and KPI

- (h) Killam MFC and KPI shall amalgamate to form Killam Amalco MFC on the terms set forth at Schedule "B" to this Plan of Arrangement;

Transfer of New LP Limited Partner Units to Killam REIT and Subordination of REIT Units to Special Units

- (i) Killam Amalco MFC shall transfer its New LP Limited Partner Units and the aggregate cash consideration received by Killam MFC from Killam REIT pursuant to Section 3.1(e) and any other cash held by Killam Amalco MFC received by Killam MFC on the issuance of Class A Shares prior to the Effective Time to Killam REIT in exchange for the issuance by Killam REIT of:
 - (i) one hundred (100) Special Units having an aggregate fair market value equal to the amount by which the fair market value of assets transferred pursuant to Section 3.1(i) exceeds the Class A Redemption Amount; and
 - (ii) that number of REIT Units that have an aggregate fair market value equal to the Class A Redemption Amount;

the time of such transfers referred to in Sections 3.1(i)(i) and (ii) shall be referred to herein as the "**Killam Amalco MFC Transfer Time**";

- (j) All Participating Unitholders will, effective upon the first issuance of the Special Units at Section 3.1(i)(i) of this Plan of Arrangement, be deemed to subordinate their entitlement to receive distributions from Killam REIT in respect of their REIT Units to the right of the holder of the Special Units to receive distributions (and redemption amounts) from Killam REIT in respect of such Special Units, such that Participating Unitholders shall not receive any distributions from Killam REIT in respect of their REIT Units, until the earlier of:
 - (i) the date on which an aggregate amount has been paid to the holder of the Special Units in respect of such Special Units equal to the Class B Redemption Amount; or
 - (ii) the time at which there are no Special Units issued and outstanding which shall occur pursuant to Section 3.1(n) of this Plan of Arrangement;

Redemption of Killam Amalco MFC Shares Outstanding Immediately Prior to the Killam Amalco MFC Transfer Time Within 60 Days

- (k) Killam Amalco MFC shall redeem all of the issued and outstanding Class A Shares held by the Participating Unitholders in consideration for the payment of the Class A Redemption Amount. The Class A Redemption Amount shall be satisfied by the transfer to Participating Unitholders of their *pro rata* share of the REIT Units acquired by Killam Amalco MFC in Section 3.1(i)(ii) above;
- (l) Killam Amalco MFC shall redeem all of the issued and outstanding Class B Shares held by Killam MLP in consideration of the payment of the Class B Redemption Amount. The Class B Redemption Amount shall be satisfied through the transfer to the Killam MLP of all the Special Units acquired by Killam Amalco MFC in Section 3.1(i)(i) above;

Right of Renunciation Becomes Effective

- (m) Concurrently with the transfer of Special Units to Killam MLP pursuant to Section 3.1(l), the Right of Renunciation shall become effective and Killam MLP will: (i) be deemed to have delivered the Renunciation Notice to Killam REIT, and (ii) surrender the Special Units acquired on the redemption of the Class B Shares for no consideration;
- (n) Killam REIT shall cancel the Special Units whereupon the subordination by the Participating Unitholders in connection with their REIT Units described at Section 3.1(j) shall terminate;

Consolidation of REIT Units

- (o) All outstanding REIT Units shall be consolidated so that the number of REIT Units outstanding following the consolidation pursuant to this Section 3.1(o) shall be equal to the aggregate of the number of REIT Units held by Participating Unitholders outstanding immediately following the transaction in Section 3.1(b); and

Transfer of New LP Limited Partner Units

- (p) Killam REIT shall transfer its New LP Limited Partner Units to Killam MLP as a partnership capital contribution (and not as a loan or advance) and Killam MLP shall increase the capital account maintained for Killam REIT by the fair market value of such contribution.

3.2 Tax Elections

The tax elections in respect of this Plan of Arrangement shall include the following:

- (a) In respect of the transactions described in Section 3.1(c), Killam REIT, in its capacity as transferor and an existing limited partner of Killam MLP, and Killam GP I, in its capacity as the general partner

of Killam MLP, shall make an election pursuant to subsection 97(2) of the Tax Act to have the transfer and the partnership capital contribution occur on a tax-deferred basis.

- (b) In respect of the transactions described in Section 3.1(g), Killam REIT and Killam GP I, in its own capacity and on behalf of the Exchangeable LP Unitholders, shall make a joint election pursuant to subsection 85(1) of the Tax Act, as modified by 85(2) of the Tax Act to have the transfer of properties described therein occur on tax-deferred basis.
- (c) In respect of the transactions described in Section 3.1(p), Killam REIT, in its capacity as transferor and an existing limited partner of Killam MLP, and Killam GP I, in its capacity as the general partner of Killam MLP, shall make an election pursuant to subsection 97(2) of the Tax Act to have the transfer and the partnership capital contribution occur on a tax-deferred basis.
- (d) In respect of the transactions described in Sections 3.1(i), 3.1(k), 3.1(l), 3.1(m) and 3.1(n), Killam REIT and Killam Amalco MFC shall make an election pursuant to section 132.2 of the Tax Act.

For greater certainty, Killam REIT, KPI and any of their direct or indirect subsidiaries shall, in addition to any other specific tax elections referred to in this Plan of Arrangement, be entitled to file any tax election(s) and/or amended tax elections in relation to the transactions that are contemplated pursuant to this Plan of Arrangement, that any such party, in their sole discretion, shall choose.

3.3 Withholding Rights

Each Party shall be entitled to deduct and withhold from any amount payable to any Person under this Plan of Arrangement, such amounts as the Party determines, acting reasonably, are required or permitted to be deducted and withheld with respect to such payment under the Tax Act, the United States Internal Revenue Code of 1986 or any provision of any other law. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes hereof as having been paid to the Person in respect of which such withholding was made, provided that such amounts are actually remitted to the appropriate taxing authority. Each Party and any Person acting on their behalf is hereby authorized to sell or otherwise dispose of such portion of any consideration otherwise payable as is necessary to provide sufficient funds to enable it to implement such deduction or withholding, and shall notify the holder thereof and remit to the holder any unapplied balance of the net proceeds of such sale.

ARTICLE 4 STATED CAPITAL ADDITIONS

4.1 Additions to Stated Capital

The amounts added to the stated capital accounts maintained by Killam MFC in respect of the issuances of shares of its capital stock under the Plan shall be as follows:

- (a) in connection with the issuance of Class A Shares pursuant to Section 3.1(e) of this Plan of Arrangement, the amount of \$0.01 per share multiplied by the number of Class A Shares so issued, shall be added to the stated capital account maintained by Killam MFC in respect of the Class A Shares; and
- (b) in connection with the issuance of Class B Shares pursuant to Section 3.1(g) of this Plan of Arrangement, the amount that is equal to the amount specified in amount "B" in paragraph 85(2.1)(a) of the Tax Act.

ARTICLE 5
DISTRIBUTION AND REDEMPTION OF CLASS A SHARES AND CLASS B SHARES

5.1 Evidence of Ownership of the Class A Shares and Class B Shares

The issuance of the Class A Shares to Killam REIT pursuant to Section 3.1(e) and distribution to Participating Unitholders pursuant to Section 3.1(f) and the issuance of Class B Shares to Killam MLP pursuant to Section 3.1(g), the ownership of such securities by such Persons, as well as the transferees of such Persons, shall be evidenced through additions to a registry maintained on behalf of Killam MFC or Killam Amalco MFC, as the case may be, in respect of the Class A Shares and Class B Shares (the "**Share Registries**") and no certificates shall be issued for such securities as part of this Plan of Arrangement.

5.2 Redemption of Class A Shares and Class B Shares

The redemption of the Class A Shares pursuant to Section 3.1(k) and the redemption of the Class B Shares pursuant to Section 3.1(l) shall be evidenced by recording such transactions on the Share Registries.

ARTICLE 6
DISSENTING UNITHOLDERS

6.1 Dissenting Unitholders

- (a) Each registered REIT Unitholder immediately prior to the Arrangement may exercise Arrangement Dissent Rights with respect to the REIT Units held by such registered REIT Unitholder in connection with the Arrangement pursuant to and in the manner set forth in section 190 of the CBCA, as modified by the Interim Order and this Article 6. Dissenting Unitholders who duly exercise their Arrangement Dissent Rights shall be deemed to have transferred the Dissenting Units held by them and in respect of which Arrangement Dissent Rights have been validly exercised to Killam REIT (free of any claims) as provided in Section 3.1(b) and if they:
 - (i) are ultimately entitled to be paid fair value for their Dissenting Units shall: (i) be deemed not to have participated in the transactions referred to in Section 3.1 hereof, other than the transaction referred to in 3.1(b); (ii) be entitled to be paid an amount equal to such fair value by Killam; and (iii) not be entitled to any other payment or consideration, including any payment that would be payable under the Arrangement had such Dissenting Unitholders not exercised their Arrangement Dissent Rights in respect of such Dissenting Units; or
 - (ii) are ultimately not entitled, for any reason, to be paid fair value for their Dissenting Units shall be deemed to have participated in the Arrangement, as of the Effective Time, on the same basis as Participating Unitholders.
- (b) No Party nor any other Person shall be required to recognize a Dissenting Unitholder from and after the Effective Time, as having any interest in Killam REIT. From and after the Effective Time, the names of Dissenting Unitholders shall be deleted from the register of holders of REIT Units maintained by Killam REIT.
- (c) The fair value of the Dissenting Units for the purposes of this Section 6.1 shall be determined as of the close of business on the last Business Day before the day on which the Arrangement Resolution is approved by the Unitholders.
- (d) For greater certainty, in addition to any other restrictions in section 190 of the CBCA, any Person who has voted (including by way of instructing a proxy holder to vote) their REIT Units in favour of the Arrangement Resolution shall not be entitled to exercise Arrangement Dissent Rights (but

only in respect of such Units). In addition, a Dissenting Unitholder may only exercise Arrangement Dissent Rights in respect of all, and not less than all, of its REIT Units.

- (e) Notwithstanding subsection 190(5) of the CBCA, the written notice setting forth such registered REIT Unitholder's objection to the Arrangement Resolution must be received in accordance with the Interim Order by no later than 5:00 p.m. (Eastern time) on the third Business Day immediately prior to the date of the Meeting.

ARTICLE 7 ISSUANCE OF CERTIFICATES

7.1 Depository

All issuances of certificates representing Units pursuant to this Arrangement but for which a certificate has not been, or cannot be, delivered, shall be delivered to the Depository to be held by the Depository in trust for the registered holder thereof. All monies received by the Depository in respect of such Units shall be invested by it in interest-bearing trust accounts upon such terms as the Depository may reasonably deem appropriate. The Depository shall pay and deliver to any such registered holder such distributions and any interest thereon to which such holder is entitled, net of applicable withholding and other taxes, upon delivery of the certificate representing the Units issued to such holder in connection with the Arrangement.

ARTICLE 8 FURTHER ASSURANCES

8.1 Further Assurances

Notwithstanding that the transactions and events set out herein shall occur and shall be deemed to occur in the order set out in this Plan of Arrangement without any further act or formality, each of the Parties shall make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them in order further to document or evidence any of the transactions or events set out herein.

ARTICLE 9 AMENDMENTS

9.1 Amendments

The Parties may amend, modify and/or supplement this Plan of Arrangement from time to time at any time prior to the Effective Time, provided that any such amendment, modification or supplement must be contained in a written document that is:

- (a) approved by each Party;
- (b) filed with the Court and, if made following the Meeting, approved by the Court; and
- (c) communicated to Unitholders in the manner required by the Court (if so required).

9.2 Effectiveness of Amendments Made Prior to or at the Meeting

Any amendment, modification or supplement to this Plan of Arrangement may be proposed by Killam REIT and Killam MFC at any time prior to or at the Meeting, and if so proposed and accepted by the Unitholders voting at the Meeting, in the manner required by the Interim Order and subsequently approved by the Court, shall become part of this Plan of Arrangement for all purposes.

9.3 Effectiveness of Amendments Made Following the Meeting

Any amendment, modification or supplement to this Plan of Arrangement may be proposed by Killam REIT and Killam MFC after the Meeting but prior to the Effective Time and any such amendment, modification or supplement which is approved by the Court following the Meeting shall be effective and shall become part of this Plan of Arrangement.

[Remainder of this page intentionally left blank]

SCHEDULE "A"
TO THE PLAN OF ARRANGEMENT
AMENDED AND RESTATED DECLARATION OF TRUST

KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST
AMENDED AND RESTATED DECLARATION OF TRUST

Dated as of [●], 2024

TABLE OF CONTENTS

ARTICLE I THE TRUST AND DEFINITIONS	2
1.1 Definitions and Interpretation	2
1.2 Tax Act	7
1.3 Day Not a Business Day	7
1.4 Time of Essence	8
ARTICLE II DECLARATION OF TRUST	8
2.1 Establishment of the Trust	8
2.2 Initial Contribution	8
2.3 Name	8
2.4 Use of Name	8
2.5 Situs, Mind and Management and Head Office	8
2.6 Nature of the Trust	9
2.7 Rights of Unitholders	9
2.8 Accounting Principles	9
ARTICLE III TRUSTEES AND OFFICERS	9
3.1 Number	9
3.2 Term	10
3.3 Qualifications of Trustees	10
3.4 Residency of Trustees	10
3.5 Election of Trustees	10
3.6 Independent Trustees	10
3.7 Resignations, Removal, Incapacity and Death of Trustees	11
3.8 Appointment of Trustees	11
3.9 Consent to Act	12
3.10 Failure to Elect Minimum Number of Trustees	12
3.11 Ceasing to Hold Office	12
3.12 Vacancies by Trustees	13
3.13 Successor and Additional Trustees	13
3.14 Compensation and Other Remuneration	13
3.15 Validity of Acts	14
ARTICLE IV TRUSTEES' POWERS AND DUTIES	14
4.1 General Powers	14
4.2 Specific Powers and Authorities	14
4.3 Further Powers of the Trustees	18
4.4 Banking	18
4.5 Standard of Care	18
4.6 Fees and Expenses	19
4.7 Reliance Upon Trustees	19
4.8 Determinations of Trustees Binding	19
4.9 Limitations on Liability of Trustees	19
4.10 Conflict of Interest	20
4.11 Conditions Precedent	22
ARTICLE V OFFICERS OF THE TRUST	22
5.1 General	22
5.2 Chair of Trustees	23
5.3 Term of Office	23
5.4 Independent Contractors	23

ARTICLE VI INVESTMENT GUIDELINES AND OPERATING POLICIES	23
6.1 Investment Guidelines	23
6.2 Operating Policies	24
6.3 Amendments to Investment Guidelines and Operating Policies.....	25
6.4 Tax Status	25
6.5 Application of Investment Guidelines and Operating Policies	25
6.6 Regulatory Matters	26
ARTICLE VII UNITS.....	26
7.1 Units	26
7.2 Special Voting Units.....	26
7.3 Trust Units and Special Units	27
7.4 Consideration for Units	28
7.5 Pre-Emptive Rights	28
7.6 Fractional Units	28
7.7 Allotment and Issue.....	28
7.8 Rights, Warrants and Options.....	28
7.9 Commissions and Discounts.....	29
7.10 Transferability	29
7.11 Transfer of Units.....	29
7.12 Non-Resident Ownership Constraint.....	29
7.13 Non-Certificated Inventory System.....	31
7.14 Redemption of Trust Units	32
7.15 Certificate Fee	35
7.16 Form of Unit Certificate	35
7.17 Unit Certificates.....	35
7.18 Contents of Unit Certificates	36
7.19 Register of Unitholders.....	37
7.20 Successors in Interest to Unitholders.....	37
7.21 Units Held Jointly or in Fiduciary Capacity	37
7.22 Performance of Trusts	37
7.23 Lost Unit Certificates.....	37
7.24 Death of Unitholders	38
7.25 Unclaimed Payments	38
7.26 Repurchase of Units.....	38
7.27 Take-Over Bids	38
7.28 Renouncing Beneficial Interests in the Trust Held by Special Unitholders.....	41
ARTICLE VIII MEETINGS OF UNITHOLDERS	41
8.1 Annual Meeting	41
8.2 Other Meetings	42
8.3 Notice of Meeting of Unitholders.....	42
8.4 Nominations of Trustees.....	43
8.5 Chairperson.....	45
8.6 Quorum.....	45
8.7 Voting.....	45
8.8 Matters on which Unitholders Shall Vote.....	45
8.9 Record Dates	46
8.10 Proxies	46
8.11 Personal Representatives	47
8.12 Attendance by Others	47
8.13 Conduct of Meetings	47
8.14 Binding Effect of Resolutions	47
8.15 Resolution in Lieu of Meeting.....	47
8.16 Actions by Unitholders.....	47

8.17	Meaning of "Special Resolution"	47
8.18	Meaning of "Outstanding"	48
ARTICLE IX MEETINGS OF THE TRUSTEES		48
9.1	Trustees May Act Without Meeting	48
9.2	Notice of Meeting.....	48
9.3	Place of Meeting.....	49
9.4	Chair	49
9.5	Quorum.....	49
9.6	Adjourned Meeting.....	49
9.7	Voting at Meetings	49
9.8	Meeting by Telephone or Other Communication Facilities.....	49
ARTICLE X COMMITTEES OF TRUSTEES		50
10.1	General	50
10.2	Investment Committee.....	50
10.3	Audit Committee	50
10.4	Governance & ESG Committee.....	51
10.5	Compensation & HR Committee.....	51
10.6	Additional Committees.....	51
10.7	Procedure.....	51
ARTICLE XI DISTRIBUTIONS.....		51
11.1	Distributions	51
11.2	Allocation	52
11.3	Payment of Distributions	52
11.4	Withholding Taxes	53
11.5	Income Tax Matters.....	53
11.6	Designations	53
11.7	Definitions	53
ARTICLE XII FEES AND EXPENSES		53
12.1	Expenses.....	53
12.2	Payment of Real Property and Brokerage Commissions	54
12.3	Asset Management, Leasing and Financing Fees	54
ARTICLE XIII AMENDMENTS TO THE DECLARATION OF TRUST.....		54
13.1	Amendments by the Trustees.....	54
13.2	Amendments by Unitholders	55
13.3	Approval by Special Resolution	55
13.4	Amendment by the Sole Unitholder	56
13.5	Internal Restructuring	56
13.6	No Termination	56
13.7	Trustees to Sign Amendment.....	56
13.8	Restriction on Amendments Affecting Certain Rights of Trustees	56
ARTICLE XIV SUPPLEMENTAL INDENTURES		56
14.1	Provision for Supplemental Indentures for Certain Purposes	56
ARTICLE XV TERMINATION OF THE TRUST.....		57
15.1	Duration of the Trust	57
15.2	Termination	57
15.3	Effect of Termination	57
15.4	Procedure Upon Termination	57
15.5	Powers of the Trustees Upon Termination	57
15.6	Further Notice to Unitholders.....	57

15.7	Responsibility of the Trustees after Sale and Conversion	57
ARTICLE XVI LIABILITIES OF TRUSTEES AND OTHERS.....		58
16.1	Liability and Indemnification of the Trustees.....	58
16.2	Indemnification of Trustees.....	58
16.3	Contractual Obligations of the Trust	58
16.4	Liability of the Trustees.....	59
16.5	Reliance Upon Advice.....	59
16.6	Liability of Unitholders and Others	59
ARTICLE XVII GENERAL		60
17.1	Execution of Instruments.....	60
17.2	Manner of Giving Notice.....	60
17.3	Failure to Give Notice	60
17.4	Joint Holders.....	60
17.5	Service of Notice	60
17.6	Trust Auditors.....	61
17.7	Fiscal Year.....	61
17.8	Reports to Unitholders.....	61
17.9	Trust Property to be Kept Separate.....	61
17.10	Electronic Documents.....	61
17.11	Trustees May hold Units.....	61
17.12	Trust Records.....	61
17.13	Right to Inspect Documents.....	62
17.14	Taxation Information	62
17.15	Consolidations	62
17.16	Counterparts.....	62
17.17	Severability	62
17.18	Headings for Reference Only.....	62
17.19	Governing Law	62
17.20	Transition	63

KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST

AMENDED AND RESTATED DECLARATION OF TRUST

THIS AMENDED AND RESTATED DECLARATION OF TRUST made in Halifax, Nova Scotia as of the [●] day of [●], 2024.

BETWEEN:

Philip D. Fraser, Aldéa Landry, James C. Lawley, Karine MacIndoe, Laurie MacKeigan, Douglas McGregor, Shant Poladian, Andrée Savoie, Robert G. Richardson, and Manfred J. Walt, the trustees of the trust constituted by this declaration of trust, and each person who after the date hereof becomes a trustee of the Trust as herein provided (each person, 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 -

Killam Properties 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 "**Trust Unitholders**"),

OF THE SECOND PART.

WHEREAS the Trust was settled on October 28, 2015 with \$10.00 (the "**Initial Contribution**") by the Initial Unitholder, which the initial trustees (the "**Initial Trustees**") thereupon held in trust, in exchange for the Initial Trust Unit;

AND WHEREAS the Initial Unitholder and the Trustees desire that the Trust shall qualify as a "mutual fund trust" and as a "real estate investment trust" pursuant to subsections 132(6) and 122.1 of the Tax Act (as hereinafter defined), respectively;

AND WHEREAS the Trustees wish to amend and restate the Trust's declaration of trust dated October 28, 2015, as amended and restated on November 27, 2015, in the manner provided herein;

AND WHEREAS for greater certainty, this amendment and restatement of the Trust's declaration of trust shall not be deemed to constitute a termination of the Trust or a settlement of the Trust's declaration of trust or of the 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 Trust 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 I
THE TRUST AND DEFINITIONS

1.1 Definitions and Interpretation

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

- (a) **"Adjudicated Incompetence"** has the meaning given thereto in Section 3.3;
- (b) **"affiliate"** of a person means any person or company that would be deemed to be an affiliated entity of such person within the meaning of National Instrument 45-106 – *Prospectus and Registration Exemptions*, as replaced or amended from time to time;
- (c) **"Annuitant"** means the annuitant or beneficiary of a Plan or any other plan of which a Unitholder acts as trustee or carrier;
- (d) **"Arrangement"** means the arrangement, under the provisions of Section 192 of the *Canada Business Corporations Act*, on the terms set out in the Plan of Arrangement and as described in the Information Circular;
- (e) **"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;
- (f) **"Audit Committee"** means the committee established pursuant to Section 10.3;
- (g) **"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 Ernst & Young LLP, Chartered Accountants;
- (h) **"Beneficial Owner"** has the meaning given thereto in Subsection 7.13(c);
- (i) **"Board"** or **"Board of Trustees"** means the board of trustees of the Trust;
- (j) **"Business Day"** means any day other than a Saturday, Sunday or statutory holiday in the Province of Nova Scotia;
- (k) **"CDS"** means CDS Clearing and Depository Services Inc. and its successors;
- (l) **"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;
- (m) **"Chair of Trustees"**, **"President"**, **"Chief Executive Officer"**, **"Chief Financial Officer"**, **"Executive Vice President"**, and **"Secretary"** mean the person(s) holding the respective office from time to time if so elected, appointed, engaged or employed by the Trustees;
- (n) **"Closing"** means the closing of the Arrangement as described in the Information Circular;
- (o) **"Compensation & HR Committee"** means the committee established pursuant to Section 10.5;
- (p) **"Governance & ESG Committee"** means the committee established pursuant to Section 10.4;

- (q) **"Declaration of Trust"** means this declaration of Trust as amended, supplemented or amended and restated from time to time;
- (r) **"dissenting offeree"** means, where a take-over bid is made for all of the Trust Units other than those held by the offeror (its affiliates and associates), a holder of Trust Units who does not accept the take-over bid and includes a subsequent holder of those Trust Units who acquires them from the first mentioned holder;
- (s) **"Distribution Date"** means, any date on which the Trustees have determined that a distribution will be made by the Trust to the Trust Unitholders, which date shall be on or about the 15th day of the month following a Distribution Record Date or, if any such day is not a business day, the next following business day, or such other date as may be determined from time to time by the Trustees or otherwise in accordance with this Declaration of Trust;
- (t) **"Distribution Record Date"** has the meaning given thereto in Section 11.1;
- (u) **"Exchange Offer"** has the meaning given thereto in Subsection 7.27(r);
- (v) **"Exchangeable Securities"** means securities exchangeable into Trust Units;
- (w) **"Fiscal Year"** means each fiscal year of the Trust;
- (x) **"Gross Book Value"** means, at any time, the greater of (i) the value of the assets of the REIT and its consolidated Subsidiaries, as shown on its then most recent consolidated statement of financial position and (ii) the historical cost of the assets of the REIT and its consolidated subsidiaries;
- (y) **"herein", "hereof", "hereby", "hereunder", "this Declaration of Trust", "this Declaration"** and similar expressions refer to this Declaration of Trust and include every instrument supplemental or ancillary to or in implementation of this Declaration of Trust and, except where the context otherwise requires, does not refer to any particular article, section or other portion hereof or thereof;
- (z) **"IFRS"** means International Financial Reporting Standards, issued by the International Accounting Standards Committee, and as adopted by the Canadian Institute of Chartered Accountants, as amended from time to time;
- (aa) **"including"** means "including, without limitation";
- (bb) **"indebtedness"** means (without duplication) on a consolidated basis:
 - (i) any obligation of such person for borrowed money (including, for greater certainty, the full principal amount of convertible indebtedness, notwithstanding its presentation under IFRS);
 - (ii) any obligation of such person for borrowed money incurred in connection with the acquisition of property, assets or businesses;
 - (iii) any obligation of such person issued or assumed as the deferred purchase price of property;
 - (iv) any capital lease obligation of such person; and

- (v) any obligations of the type referred to in clauses (i) through (iv) of another person, the payment of which such person has guaranteed or for which such person is responsible or liable,

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

- (cc) **"Independent Trustee"** means, at any time, for purposes of the Audit Committee, a Trustee who, in relation to the Trust, is "independent" for purposes of National Instrument 52-110 – *Audit Committees*, as replaced or amended from time to time and, for all other purposes, at any time, a Trustee who, in relation to the Trust, is "independent" for the purposes of National Instrument 58-101 *Disclosure of Corporate Governance Practices*, as replaced or amended from time to time;
- (dd) **"Information Circular"** means the management information circular of Killam prepared in connection with a special meeting of Killam relating to the approval of the Arrangement and any amendments thereto;
- (ee) **"Initial Contribution"** means the amount of \$10 paid by the Initial Unitholder to the Initial Trustees for the purpose of establishing the Trust;
- (ff) **"Initial Trust Unit"** means the initial Trust Unit issued by the Trust to the Initial Unitholder;
- (gg) **"Initial Unitholder"** means the person named herein as the first unit holder of the Initial Trust Unit;
- (hh) **"Investment Committee"** means the committee established pursuant to Section 10.2;
- (ii) **"Killam"** means Killam Properties Inc., and includes any successors;
- (jj) **"Monthly Limit"** has the meaning given thereto in Paragraph 7.14(d)(i);
- (kk) **"mortgage"** means any mortgage, charge, hypothec, bond, debenture, note or other evidence of indebtedness, in each case which is directly or indirectly secured by real property;
- (ll) **"NCI"** means the non-certificated inventory system of CDS;
- (mm) **"net realized capital gains of the Trust"** for any period means the amount, if any, by which the aggregate amount of the realized capital gains of the Trust for the year, calculated in accordance with the Tax Act exceeds the aggregate of: (i) the amount of any realized capital losses of the Trust for the year determined in accordance with the Tax Act; (ii) any capital gains realized by the Trust on the disposition of any of its property designated as having been paid to the redeeming Unitholders pursuant to Section 7.14; (iii) the amount

of any net capital losses of the Trust carried forward from a prior taxation year to the extent not previously deducted from realized capital gains of the Trust in accordance with the Tax Act; and (iv) any amount in respect of which the Trust is entitled to a capital gains refund under the Tax Act, as determined by the Trustees; provided that at the discretion of the Trustees, the net realized capital gains of the Trust for a year may be calculated without subtracting the full amount of the net capital losses of the Trust for the year and/or without subtracting the full amount of the net capital losses of the Trust carried forward from prior years;

- (nn) **"Nominating Unitholder"** has the meaning given thereto in Paragraph 8.4(a)(iii);
- (oo) **"Non-Resident"** means an individual (including a trust) or a corporation who is not a Resident and a partnership that is not a "Canadian partnership" within the meaning of the Tax Act;
- (pp) **"Notice Date"** has the meaning given thereto in Subsection 8.4(c);
- (qq) **"offeree"** means a person to whom a take-over bid is made;
- (rr) **"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 Trust Units for which a take-over bid is made;
- (ss) **"person"** means and includes any individual, general partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, joint stock company, association, trust, trust company, bank, pension fund, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or other organization or entity, whether or not a legal entity, however designated or constituted;
- (tt) **"Plans"** means, collectively, trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans, deferred profit sharing plans, registered disability savings plans and tax-free saving accounts, each as described in the Tax Act;
- (uu) **"Plan of Arrangement"** has the meaning given thereto in 7.3(b)(iv);
- (vv) **"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 interests in real property (whether by way of tenancy-in-common, joint tenancy, co-ownership, joint venture, syndicate or otherwise), any interests in any of the foregoing and securities of trusts, corporations or partnerships the sole or principal purpose and activity of which is to invest in, hold and deal in real property;
- (ww) **"Redemption Date"** has the meaning given thereto in Paragraph 7.14(c)(i);
- (xx) **"Redemption Notes"** means unsecured subordinated promissory notes of the Trust having a maturity date to be determined at the time of issuance by the Trustees (provided that in no event shall the maturity date be set at a date subsequent to the first Business Day following the fifth anniversary of the date of issuance of such note), bearing interest from the date of issue at a market rate of interest determined at the time of issuance by the

Trustees, payable for each month during the term on the 15th day of each subsequent month with all principal being due on maturity, such promissory notes to provide that the Trust shall at any time be allowed to prepay all or any part of the outstanding principal without notice or bonus;

- (yy) **"Redemption Price"** has the meaning given thereto in Paragraph 7.14(c)(i);
- (zz) **"Register"** has the meaning given thereto in Section 7.19;
- (aaa) **"Renunciation"** has the meaning given thereto in Section 7.28;
- (bbb) **"Renunciation Notice"** has the meaning given thereto in Section 7.28;
- (ccc) **"Resident"** means an individual (including a trust) or a corporation who is, or is deemed to be, resident in Canada for purposes of the Tax Act, or a partnership that is a "Canadian partnership" for purposes of the Tax Act;
- (ddd) **"Retiring Trustee"** has the meaning given thereto in Section 3.7;
- (eee) **"Securities Laws"** means, collectively, the applicable securities laws of each of the provinces and territories of Canada and the respective regulations and rules made under those securities laws together with all published policy statements, instruments, blanket orders and rulings of Canadian securities commissions and all discretionary orders or rulings, if any, of Canadian securities commissions made in connection with the transactions contemplated by this Declaration of Trust;
- (fff) **"SIFT Legislation"** means the provisions of the Tax Act that apply to a "SIFT trust" or "SIFT partnership" (as each such term is defined in the Tax Act), taking into account all specific proposals to amend the Tax Act publicly announced by or on behalf of the Minister of Finance (Canada), with respect to such provisions;
- (ggg) **"Special Resolution"** has the meaning given thereto in Section 8.17;
- (hhh) **"Special Units"** means the special units of the Trust;
- (iii) **"Special Unit Redemption Amount"** has the meaning given thereto in Paragraph 7.3(b)(iv);
- (jjj) **"Special Voting Units"** means the special voting units of the Trust;
- (kkk) **"Special Unitholder"** means at any time the holders at that time of one or more Special Units, as shown on the register of such holders maintained by the Transfer Agent on behalf of the Trust;
- (lll) **"Special Voting Unitholders"** means at any time the holders at that time of one or more Special Voting Units, as shown on the register of such holders maintained by the Transfer Agent on behalf of the Trust;
- (mmm) **"Subsidiary"** and **"Subsidiaries"** has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus and Registration Exemptions*, as replaced or amended from time to time;
- (nnn) **"take-over bid"** has the meaning given thereto in the *Securities Act* (Ontario) as replaced or amended from time to time;

- (ooo) "**Tax Act**" means the *Income Tax Act* (Canada) and the regulations thereunder, as replaced or amended from time to time;
- (ppp) "**Taxation Year**" means the taxation year of the Trust for the purposes of the Tax Act;
- (qqq) "**Transfer Agent**" means any such company as may from time to time be appointed by the Trust to act as registrar and transfer agent of the Units, together with any sub-transfer agent duly appointed by the Transfer Agent and, initially, means Computershare Investor Services Inc.;
- (rrr) "**Trust**" means Killam Apartment Real Estate Investment Trust, a trust created pursuant to and governed by this Declaration of Trust pursuant to the laws of Canada;
- (sss) "**Trust Unit**" means a unit of the Trust or a fraction thereof but, for greater certainty, excludes a Special Voting Unit and a Special Unit;
- (ttt) "**Trust Unitholder**" means a person whose name appears on the Register as a holder of one or more Trust Units or of a fraction of a Trust Unit;
- (uuu) "**Trustees**" means the trustee or trustees of the Trust holding office under and in accordance with this Declaration of Trust from time to time and "**Trustee**" means any one of them;
- (vvv) "**Trustees' Regulations**" means the regulations adopted by the Trustees pursuant to Section 4.3;
- (www) "**TSX**" means the Toronto Stock Exchange;
- (xxx) "**Unit Certificate**" means a certificate, in the form stipulated by Article VII, evidencing one or more Trust Units, issued and certified in accordance with the provisions hereof;
- (yyy) "**Unitholder**" means a person whose name appears on the Register as a holder of one or more Trust Units, or a fraction thereof, but "**unitholder**" when used in lowercase, refers to all holders of Units, whose name appears on the Register as holder of one or more Trust Units or Special Voting Units, or a fraction thereof; and
- (zzz) "**Units**" means, collectively, the Trust Units, Special Voting Units and the Special Units.

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 may 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 11.1, 11.2 and 11.3.

1.4 Time of Essence

Time shall be of essence in this Declaration of Trust.

ARTICLE II **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 Initial Trustees for the purpose of establishing the Trust.

2.3 Name

The name of the Trust is Killam Apartment Real Estate Investment Trust. 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 Killam Apartment Real Estate Investment Trust 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 Situs, Mind and Management and Head Office

The principal and head office and centre of administration of the Trust shall be located at 3700 Kempt Road, Halifax, Nova Scotia, B3K 4X8. The registered office of the Trust shall be located at 3700 Kempt Road, Halifax, Nova Scotia, B3K 4X8, 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. The situs, mind and management of the Trust shall be situated in the Province of Ontario.

2.6 Nature of the Trust

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

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

The Trust is not and is not intended to be, shall not be deemed to be and shall not be treated, as a general partnership, limited partnership, syndicate, association, joint venture, agency, 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 property of the Trust shall be solely that of beneficiaries of the Trust and their rights shall be limited to those conferred upon them by this Declaration of Trust.

2.7 Rights of Unitholders

The rights of each beneficiary of the Trust are described by reference to Trust Units. 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's property or for a distribution of any particular asset forming part of the Trust's property or of any particular monies or funds received by the Trustees. The legal ownership of the property of the Trust and the right to conduct the activities of the Trust are vested exclusively in the Trustees, and no Unitholder has or is deemed to have any right of ownership in any of the property of the Trust, except as specifically provided herein. Except as specifically provided herein, no unitholder shall be entitled to interfere with or give any direction to the Trustees with respect to the affairs of the Trust or in connection with the exercise of any powers or authorities conferred upon the Trustees under this Declaration of Trust. The Units shall be personal property and shall confer upon the holders thereof only the interest and rights specifically set forth in this Declaration of Trust.

2.8 Accounting Principles

Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made for the purpose of this Declaration of Trust, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with IFRS, and all financial data prepared pursuant to this Declaration of Trust shall be prepared in accordance with such principles, consistently applied. In the event of a change in IFRS, the Trustees shall revise (if appropriate) the financial data prepared pursuant to this Declaration of Trust to reflect IFRS as then in effect, in which case all financial data shall be made on a basis consistent with IFRS in existence as at the date of such revisions.

ARTICLE III **TRUSTEES AND OFFICERS**

3.1 Number

There shall be a minimum of five (5) and a maximum of twelve (12) Trustees. The number of Trustees within such minimum and maximum numbers may be changed by the Unitholders or by the Trustees from time to time at their discretion.

3.2 Term

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

3.3 Qualifications of Trustees

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

3.4 Residency of Trustees

A majority of the Trustees must be Residents. If at any time a majority of the Trustees or a majority of the Trustees of any committee of the Trustees are not Residents because of the death, resignation, insolvency, bankruptcy, Adjudicated Incompetence or incapacity, removal or change in circumstance of any Trustee who was a Resident Trustee, or there are no Trustees who are Residents, the Trustee or Trustees who are Non-Residents shall, immediately before that time, be deemed to have resigned and shall cease to be Trustees with effect from the time of such deemed resignation and the remaining Trustees shall appoint a sufficient number of Resident Trustees to comply with this requirement. If at any time the number of Trustees is less than the number required under this Declaration of Trust and the remaining Trustee or Trustees fail or are unable to act in accordance with Section 3.7 and/or Section 3.12 to appoint one or more additional Trustees or if, upon the resignation or deemed resignation of one or more Trustees there would be no Trustees, then any remaining Trustee or unitholder or officer of the Trust or the Auditors, as the case may be, may apply to the Superior Court of Ontario for an order appointing one or more Trustees so that following such appointment a majority of the Trustees are Residents, to act until the next annual meeting of unitholders or on such other terms as the Court may order. Any Trustee who is a Resident who proposes to become a Non-Resident shall notify the other Trustees thereof as soon as reasonably practicable and, if a majority of the Trustees would not be Residents if such Trustee became a Non-Resident, such Trustee shall resign as a Trustee effective upon the day of such notification and shall be replaced with a Trustee who is a Resident.

3.5 Election of Trustees

Subject to Sections 3.1, 3.3, 3.4, 3.6, 3.8 and 3.12, the election of the Trustees shall be by the vote of unitholders. The appointment or election of any Trustee (other than an individual who is serving as a Trustee immediately prior to such appointment or election) shall not become effective unless and until, in the case of the initial election or appointment of a Trustee, such person shall have in writing accepted such appointment or election and agreed to be bound by the terms of this Declaration of Trust.

3.6 Independent Trustees

A majority of the Trustees must qualify as "independent" within the meaning of National Instrument 52-110 – *Audit Committees*, as replaced or amended from time to time, for the purposes of the Audit Committee and within the meaning of National Instrument 58-101 – *Disclosure of Corporate Governance Practices*, as amended or replaced from time to time, for all other purposes, provided, however, that if at any time a majority of the Trustees are not independent because of the death, resignation, bankruptcy, Adjudicated Incompetence, removal or change in circumstance of any Trustee who was an independent Trustee, this requirement shall not be applicable for a period of 60 days thereafter, during which time the remaining Trustees shall appoint a sufficient number of Trustees who qualify as "independent" to comply with this requirement.

3.7 Resignations, Removal, Incapacity and Death of Trustees

- (a) A Trustee may resign at any time by an instrument in writing signed by the Trustee and delivered or mailed to the Chair of Trustees or the Board of Trustees. A resignation of a Trustee becomes effective at the time a written resignation is received by the Trust, or at the time specified in the resignation.
- (b) A Trustee may be removed at any time with or without cause by a majority of the votes cast at a meeting of Unitholders called for that purpose or with cause by the resolution passed by an affirmative vote of not less than two-thirds of the remaining Trustees. Any removal of a Trustee shall take effect immediately following the aforesaid vote or resolution or at any later time specified in the notice without need for prior accounting, and any Trustee so removed shall be so notified by the Chair of Trustees, Chief Executive Officer or another officer of the Trust or if there is no officer of the Trust, by any remaining Trustee or if there is no Trustee then remaining, by the unitholders, following such removal.
- (c) Upon the resignation or removal of any Trustee, or such Trustee otherwise ceasing to be a Trustee (in each case, a "**Retiring Trustee**"), such Retiring Trustee shall cease to have the rights, privileges and powers of a Trustee hereunder, shall account to the remaining Trustees as they may require for all property which he or she holds as Trustee and do all such other things as may be required pursuant to Subsection 3.11(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 XVI.
- (d) Upon the incapacity or death of any Trustee, such Retiring Trustee's legal representative shall execute and deliver on such Trustee's behalf such documents as the remaining Trustees may require as provided in this Section 3.7. In the event that a Trustee or his legal representatives, as applicable, are unable or unwilling to execute and deliver such required documents, each of the remaining Trustees is hereby appointed as the attorney of such Trustee for the purpose of executing and delivering such required documents.

3.8 Appointment of Trustees

The appointment of the Trustees named in the First Part above is hereby confirmed and the term of office applicable to each Trustee shall expire at the close of the first annual meeting of Unitholders. Except as otherwise provided herein, Trustees shall be elected (including the re-election of incumbent Trustees) at each annual meeting of unitholders, and may be elected at a special meeting of unitholders. Any such election shall be made either by a resolution approved by a majority of the votes cast at a meeting of unitholders or shall be made by resolution in writing in the manner set out in Section 8.15. Notwithstanding the foregoing:

- (a) if no Trustees are elected at the annual meeting of unitholders held immediately before the term of office of the then existing Trustees expires, such existing Trustees shall continue to hold the office of Trustees under this Declaration of Trust until successors have been appointed or they cease to hold office; and
- (b) the Trustees may, between annual meetings of the unitholders, appoint one or more additional Trustees to serve until the next annual meeting of Unitholders; provided that the number of additional Trustees so appointed will not at any time exceed one-third of the number of Trustees who held such office at the conclusion of the immediately preceding annual meeting of unitholders (rounding to the nearest whole number).

3.9 Consent to Act

- (a) A person who is appointed a Trustee hereunder shall not become a Trustee until the person has, either before or after their initial appointment as Trustee, 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: Killam Apartment Real Estate Investment Trust (the "Trust")

And to: The Trustees thereof

The undersigned hereby certifies that he or she [is/is not] a resident of Canada within the meaning of the *Income Tax Act* (Canada) and consents to act as a Trustee of the Trust and hereby agrees, upon the date of this consent and 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 28th day of October, 2015, as amended, supplemented or amended and restated from time to time, constituting the Trust.

Dated:

[Signature]

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

3.10 Failure to Elect Minimum Number of Trustees

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

3.11 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 3.3;
 - (ii) the Trustee ceases to be a Trustee in accordance with Section 3.4;
 - (iii) the Trustee dies or resigns; or
 - (iv) the Trustee is removed in accordance with Section 3.7.
- (b) Upon a Trustee ceasing to hold office as such hereunder, such Trustee shall cease to be a party (as a Trustee) to this Declaration of Trust; provided, however, that such Trustee shall continue to be entitled to be paid any amounts owing by the Trust to the Trustee and to the benefits of the indemnity provided in Section 16.2. Such Trustee shall execute and deliver such documents as the remaining Trustees shall reasonably require for the conveyance of any Trust property held in that Trustee's name, shall account to the remaining Trustees as

they may reasonably require for all property which that Trustee holds as Trustee, shall resign from all directorship or similar positions held by such Trustee in any entity in which the Trust has an interest and shall thereupon be discharged as Trustee. Upon the incapacity or death of any Trustee, his legal representative shall execute and deliver on his behalf such documents as the remaining Trustees may reasonably require as provided in this Subsection 3.11(b). In the event that a Trustee or his legal representatives, as applicable, are unable or unwilling to execute and deliver such required documents, each of the remaining Trustees is hereby appointed as the attorney of such Trustee for the purposes of executing and delivering such required documents. This power of attorney granted to each of the remaining Trustees is not intended to be an enduring power of attorney within the meaning of the *Powers of Attorney Act* (Ontario), exercisable during a Trustee's incapacity to manage property, or any similar power of attorney under equivalent legislation in any of the provinces or territories of Canada (a "CPOA"). The execution of this power of attorney will not terminate any CPOA granted by the Trustee previously and will not be terminated by the execution by the Trustee in the future of a CPOA, and the Trustee hereby agrees not to take any action in future which results in the termination of this power of attorney.

3.12 Vacancies by Trustees

The death, resignation, bankruptcy, Adjudicated Incompetence or other incapacity to exercise the duties of the office of a Trustee or the removal or other cessation to hold office of a Trustee shall not operate to annul this Declaration of Trust or affect the continuity of the Trust. Until vacancies are filled, the remaining Trustee or Trustees (even if less than a quorum) may exercise the powers of the Trustees hereunder. In the case of a vacancy, the unitholders 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 may fill such vacancy, except a vacancy resulting from an increase in the number of Trustees or from a failure of the unitholders to elect the minimum number of Trustees fixed by or pursuant to this Declaration of Trust. If there is not such a quorum of Trustees and there is a failure by the unitholders to elect the minimum number of Trustees required by or pursuant to this Declaration of Trust, the Trustees then in office shall promptly call a special meeting of unitholders to fill the vacancy and, if they fail to call a meeting or if there are no Trustees then in office, the meeting may be called by any unitholder. A Trustee appointed to fill a vacancy holds office, subject to Section 3.7 and Section 3.11, until the close of the next annual meeting of the unitholders, unless such Trustee is elected at the next annual meeting.

3.13 Successor and Additional Trustees

The right, title and interest of the Trustees in and to the property and assets of the Trust shall vest automatically in all persons who may hereafter become Trustees upon their due election or appointment and qualification and acceptance thereof without any further act and they shall thereupon have all the rights, privileges, powers, obligations and immunities of Trustees hereunder. Such right, title and interest shall vest in the Trustees whether or not conveyancing documents have been executed and delivered pursuant to Section 3.11 or otherwise.

3.14 Compensation and Other Remuneration

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

Each of the Trustees, either directly or indirectly, shall also be entitled to receive remuneration for services rendered to the Trust in any other capacity. Such services may include, without limitation, services as an officer of the Trust, legal, accounting or other professional services or services as a broker, transfer agent or underwriter, whether performed by a Trustee or any person affiliated with a Trustee. Trustees who are

employees of and who receive salary from the Trust, any manager of the Trust, or any of their respective affiliates shall not be entitled to receive any remuneration for their services as Trustees but shall be entitled to reimbursement from the Trust of their travel and out-of-pocket expenses properly incurred in acting as a Trustee.

3.15 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 IV TRUSTEES' POWERS AND DUTIES

4.1 General Powers

The Trustees, subject only to the terms and conditions contained in this Declaration of Trust, including without limitation, Sections 6.1, 6.2 and 8.8, shall have, without further or other authorization and free from any control or direction on the part of the Unitholders, full, absolute and exclusive power, control and authority over the assets of the Trust and over the operations of the Trust to the same extent as if the Trustees were the sole and absolute legal and beneficial owners of such assets in their own right, to do all such acts and things as in their sole judgment and discretion are necessary or incidental to, or desirable for, the carrying out of any of the purposes of the Trust or the conducting of the affairs of the Trust. In construing the provisions of this Declaration of Trust, there shall be a presumption in favour of the power and authority having been granted to the Trustees. The enumeration of any specific power or authority herein shall not be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustees. Except as specifically required by such laws, the Trustees shall in carrying out investment activities not be in any way restricted by the provisions of the laws of any jurisdiction limiting or purporting to limit investments which may be made by trustees. Without limiting the generality of the foregoing, the Trustees may, subject to the terms and conditions contained in this Declaration of Trust, make any investments without being required to adhere to all of, or any particular portion of the investment criteria or diversification requirements set forth in the *Trustee Act* (Ontario), as replaced or amended from time to time, including, without limitation, investments in mutual funds, common trust funds, unit trusts and similar types of investment vehicles, to alter or vary such investments from time to time in a like manner, to retain such investments for such length of time as the Trustees, in their discretion determine and to delegate management and authority to discretionary managers of investment funds as the Trustees in their discretion determine appropriate.

For greater certainty and without limiting the generality of this Section 4.1, the Trust is authorized to complete the Arrangement or the transactions described in the Information Circular.

4.2 Specific Powers and Authorities

Subject only to the terms and conditions contained in this Declaration of Trust including, without limitation in Sections 6.1, 6.2 and 8.8, and in addition to any powers and authorities conferred by this Declaration of Trust or which the Trustees may have by virtue of any present or future statute or rule of law, the Trustees, without any action or consent by the unitholders, shall have and may exercise, on behalf of the Trust or otherwise, at any time and from time to time the following powers and authorities which may or may not be exercised by them in their sole judgment and discretion and in such manner and upon such terms and conditions as they may from time to time deem proper:

- (a) to retain, invest and re-invest the capital or other funds of the Trust, directly or indirectly, in real or personal property of any kind, and to possess and exercise all the rights, powers and privileges appertaining to the ownership of the property of the Trust and to increase the capital of the Trust at any time by the issuance of additional Units for such consideration as they deem appropriate;

- (b) for such consideration as they deem proper, to invest in, purchase or otherwise acquire for cash or other property or through the issuance of Units or through the issuance of notes, debentures, bonds or other obligations or securities of the Trust and hold for investment, directly or indirectly, the entire or any interest in any real property. In connection with any such investment, purchase or acquisition, the Trustees shall have the power to acquire all or a share of the rents, lease payments or other gross income or profits from or in the equity in or ownership of real property;
- (c) to sell, rent, lease, hire, exchange, release, partition, assign, mortgage, pledge, hypothecate, grant security interests in, encumber, negotiate, convey, transfer or otherwise dispose of any or all of the property of the Trust by deeds, trust deeds, assignments, bills of sale, transfers, leases, mortgages, financing statements, security agreements and other instruments for any of such purposes executed and delivered for and on behalf of the Trust by one or more of the Trustees or by a duly authorized officer, employee, agent or any nominee of the Trust;
- (d) to enter into leases, contracts, obligations and other agreements for a term extending beyond the term of office of the Trustees and beyond the possible termination of the Trust or for a lesser term;
- (e) to 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 its third parties; to enter into other obligations on behalf of the Trust; and to assign, convey, transfer, mortgage, subordinate, pledge, grant security interests in, encumber or hypothecate the property of the Trust to secure any of the foregoing;
- (f) without limit as to amount, to issue any type of debt securities or convertible debt securities and to borrow money or incur any other form of indebtedness for the purpose of carrying out the purposes of the Trust or for other expenses incurred in connection with the Trust and for such purposes may draw, make, execute and issue promissory notes and other negotiable and non-negotiable instruments or securities and evidences of indebtedness, secure the payment of sums so borrowed or indebtedness incurred and mortgage, pledge, assign or grant a security interest in any money owing to the Trust or its property or engage in any other means of financing the Trust;
- (g) to lend money or other property of the Trust, whether secured or unsecured;
- (h) to establish systems to monitor the qualification of the Trust as a "mutual fund trust", a "unit trust" and a "real estate investment trust" within the meaning of the Tax Act;
- (i) to incur and pay out of the property of the Trust any charges or expenses and disburse any funds of the Trust, which charges, expenses or disbursements are, in the opinion of the Trustees, necessary or incidental to or desirable for the carrying out of any of the purposes of the Trust or conducting the affairs of the Trust including, without limitation, charitable donations, taxes or other governmental levies, charges and assessments of whatever kind or nature, imposed upon or against the Trustees in connection with the Trust or the property of the Trust or upon or against the property of the Trust or any part thereof and for any of the purposes herein;
- (j) to deposit funds of the Trust in banks, trust companies and other depositories, whether or not such deposits will earn interest, the same to be subject to withdrawal on such terms and in such manner and by such person or persons (including, without limitation, any one or more Trustees, officers, agents or representatives) as the Trustees may determine;

- (k) to possess and exercise all the rights, powers and privileges appertaining to the ownership of or interest in all or any mortgages or securities, issued or created by, or interest in, any person, forming part of the assets of the Trust, to the same extent that an individual might and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or action generally or for any particular meeting or action and may include the exercise of discretionary power;
- (l) to exercise any conversion privilege, subscription right, warrant or other right or option available in connection with any property of the Trust at any time held by it and to make payments incidental thereto; to consent, or otherwise participate in or dissent from, the reorganization, consolidation, amalgamation, merger or readjustment of the finances of any person (other than the Trust), any of the securities of which may at any time be held, directly or indirectly, by the Trust, or to the sale, mortgage or lease of the property of any such person; and to do any act with reference thereto, including (without limitation) the delegation of discretionary powers, the exercise of options, the making of agreements or subscriptions and the payment of expenses, assessments or subscriptions which it may consider necessary or advisable in connection therewith;
- (m) to elect, appoint, engage or employ officers for the Trust (including, without limitation, the Chair of Trustees, President, Chief Executive Officer, Chief Financial Officer, Executive Vice Presidents, Secretary, and such vice-presidents and other officers as the Trustees may determine), who may be removed or discharged at the discretion of the Trustees, such officers to have such powers and duties, and to serve such terms as may be prescribed by the Trustees or by the Trustees' Regulations; to engage, appoint, employ or contract with any persons as agents, representatives, employees or independent contractors or otherwise (including, without limitation, real estate advisors, investment advisors, registrars, underwriters, accountants, lawyers, real estate agents, property managers, appraisers, brokers, architects, engineers, construction managers, general contractors or otherwise) in one or more capacities, and to pay compensation from the Trust for services in as many capacities as such persons may be so engaged or employed; and, except as prohibited by law or this Declaration of Trust, to delegate any of the powers and duties of the Trustees (including, without limitation, the power of delegation) to any one or more Trustees, agents, representatives, officers, employees, independent contractors or other persons without regard to whether such power, authority or duty is normally granted or delegated by Trustees;
- (n) to collect, sue for and receive sums of money coming due to the Trust, and to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, proceedings, disputes, claims, demands or other litigation relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefor whether or not any suit is commenced or claim accrued or asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- (o) to renew, modify, release, compromise, extend, consolidate or cancel, in whole or in part, any obligation to or of the Trust;
- (p) to purchase and pay for, out of the assets of the Trust, insurance contracts and policies insuring the assets of the Trust against any and all risks and insuring the Trust and/or any or all of the Trustees, the Unitholders or officers of the Trust against any and all claims and liabilities of any nature asserted by any person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustees, the Unitholders or the officers of the Trust;

- (q) to cause legal title to any of the assets of the Trust to be held by and/or in the name of the Trustees, or by and/or in the name of the Trust or one or more of the Subsidiaries or any other person or persons, on such terms, in such manner and with such powers in such person or persons as the Trustees may determine and with or without disclosure that the Trust or Trustees are interested therein provided, however, that should legal title to any of the assets of the Trust be held by and/or in the name of any person or persons other than the Trust, the Trustees shall require such person or persons to execute a declaration of trust acknowledging that legal title to such assets is held in trust for the benefit of the Trust;
- (r) to determine conclusively the allocation to capital, income or other appropriate accounts for all receipts, expenses, disbursements and, property of the Trust;
- (s) to issue Units for such consideration as the Trustees may deem appropriate in their sole discretion, such issuance to be subject to the terms and conditions of this Declaration of Trust;
- (t) to make or cause to be made application for the listing on any stock exchange of any Units or other securities of the Trust, and to do all things which in the opinion of the Trustees may be necessary or desirable to effect or maintain such listing or listings;
- (u) to prepare, sign and file or cause to be prepared, signed and filed any prospectus, offering memorandum or similar document, and any amendment thereto and all agreements contemplated therein or ancillary thereto or relating to or resulting from any offerings of the Units or other securities issued or held by the Trust and to pay the cost thereof and related thereto out of the property of the Trust whether or not such offering is or was of direct benefit to the Trust or those persons (if any) who were Unitholders immediately prior to such offering;
- (v) in addition to the mandatory indemnification provided for in Section 16.2, to the extent permitted by law, to indemnify, or enter into agreements with respect to the indemnification of any person with whom the Trust has dealings including, without limitation, the Trustees, the officers of the Trust, the depository, the Transfer Agent or any escrow agent, to such extent as the Trustees shall determine;
- (w) to determine conclusively the value of any or all of the property of the Trust from time to time and, in determining such value, to consider such information and advice as the Trustees, in their sole judgment, may deem material and reliable;
- (x) to do all such acts and things and to exercise such powers as may be delegated to the Trustees by any person who co-owns real property with the Trust;
- (y) to pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Trustees in connection with the Trust's assets, undertaking or income of the Trust, or imposed upon or against the Trust's assets, undertaking or income of the Trust, or any part thereof and to settle or compromise disputed tax liabilities and for the foregoing purposes to prepare and file such returns, take such deductions, and make such designations, elections and determinations in respect of the income or net realized capital gains of the Trust and any other matter as shall be permitted under the Tax Act or other tax statute (provided that to the extent necessary the Trustees will seek the advice of the Trust's counsel or the Auditor), and do all such other acts and things as may be deemed by the Trustees in their sole discretion to be necessary, desirable or convenient in connection with the foregoing; and
- (z) to do all such other acts and things as are incidental to the foregoing, and to exercise all powers that are necessary or useful to carry on the undertakings of the Trust, to promote

any of the purposes for which the Trust is formed and to carry out the provisions of this Declaration of Trust.

4.3 Further Powers of the Trustees

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

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

4.4 Banking

The banking activities of the Trust, or any part thereof, including, but without restricting the generality of the foregoing, the operation of the Trust's accounts; the making, signing, drawing, accepting, endorsing, negotiation, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for orders relating to any property of the Trust; the execution of any agreement relating to any property of the Trust; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such bank to do any act or thing on the Trust's behalf to facilitate such banking activities, shall be transacted with such bank, trust company, or other firm or corporation carrying on a banking business as the Trustees may designate, appoint or authorize from time to time and shall be transacted on the Trust's behalf by one or more officers of the Trust as the Trustees may designate, appoint or authorize from time to time.

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 the Unitholders 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 and the Unitholders or, in connection therewith, fails to exercise the degree of care, diligence and skill that a reasonably prudent

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

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's property, all fees, costs and expenses properly incurred in connection with the administration and management of the Trust, including (without limitation) real property and brokerage commissions in respect of investments and dispositions of real property made by the Trust, charitable donations, 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's property.

4.7 Reliance Upon Trustees

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

4.8 Determinations of Trustees Binding

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

4.9 Limitations on Liability of Trustees

- (a) Subject to the standard of care set forth in Section 4.5, none of the Trustees nor any officers, employees or agents of the Trust shall be liable to any unitholder or any other person in tort, contract or otherwise for any action taken or not taken in good faith in reliance on any documents that are, prima facie, properly executed; for any depreciation of, or loss to, the Trust incurred by reason of the sale of any security; for the loss or disposition of monies or securities; for any action or failure to act by any person to whom the Trustees are permitted to delegate and have delegated any of their duties hereunder; or for any other action or failure to act including, without limitation, the failure to compel in any way any former Trustee to redress any breach of trust or any failure by any person to perform obligations or pay monies owed to the Trust, unless such liabilities arise out of a breach of the standard of care, diligence and skill as set out in Section 4.5. If the Trustees have retained an appropriate expert, advisor or legal counsel with respect to any matter connected with their duties under this Declaration of Trust, the Trustees may act or refuse to act based on the advice of such expert, advisor or legal counsel and, notwithstanding any provision of this Declaration of Trust, including, without limitation, the standard of care, diligence and skill set out in Section 4.5 hereof, the Trustees shall not be liable for and shall be fully protected from any action or refusal to act based on the advice of any such expert, advisor or legal

counsel which it is reasonable to conclude is within the expertise of such expert or advisor to give.

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

4.10 Conflict of Interest

- (a) Subject to Section 17.20, 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); or
 - (ii) is a director or officer of, or otherwise has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Trust (or an affiliate thereof),

such Trustee or officer of the Trust shall disclose in writing to the Trustees or request to have entered into the minutes of meetings of the Trustees or Investment Committee 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 or the Investment Committee at which a proposed material contract or transaction is first considered;
 - (B) if the Trustee was not then interested in a proposed material contract or transaction, at the first such meeting after he becomes so interested;
 - (C) if the Trustee becomes interested after a material contract is made or a transaction is entered into, at the first meeting after he becomes so interested; or
 - (D) if a person who is interested in a material contract or transaction later becomes a Trustee, at the first such meeting after he becomes a Trustee;
- (iv) the disclosure required in the case of an officer of the Trust who is not a Trustee shall be made:

- (A) forthwith after such person becomes aware that the material contract or transaction or proposed material contract or transaction is to be considered or has been considered at a meeting of the Trustees or the Investment Committee;
 - (B) if such person becomes interested after a material contract is made or transaction is entered into, forthwith after such person becomes aware that he has become so interested; or
 - (C) if a person who is interested in a material contract or a transaction later becomes an officer of the Trust, forthwith after he becomes an officer of the Trust.
- (b) Notwithstanding Paragraphs 4.10(a)(i) and 4.10(a)(ii), where this Section applies to any person in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the affairs of the Trust, would not require approval by the Trustees or the unitholders, such person shall disclose in writing to the Trustees or request to have entered into the minutes of meetings of the Trustees or the Investment Committee the nature and extent of such person's interest forthwith after such person becomes aware of the material contract or transaction or proposed material contract or transaction.
- (c) A Trustee referred to in this Section 4.10 shall not vote on any resolution to approve the said material contract or transaction unless the material contract or transaction is:
 - (i) one relating primarily to such Trustee's remuneration as a Trustee, officer, employee or agent of the Trust; or
 - (ii) one for indemnity of such Trustee under Section 16.1 hereof or the purchase of liability insurance,

provided, however, that the presence of such Trustee at the relevant meeting or the written recognition by such Trustee of any resolution in writing shall be counted toward any quorum requirement or requirement that at least a minimum number of Trustees act.
- (d) For the purposes hereof, a general notice to the Trustees by a Trustee or an officer of the Trust disclosing that such person is a director or officer of or has a material interest in a person and is to be regarded as interested in any material contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any material contract so made or transaction so entered into. In the event that a meeting of unitholders is called to confirm or approve a material contract or transaction which is the subject of a general notice to the Trustees, the notice and extent of the interest in the material contract or transaction of the person giving such general notice shall be disclosed in reasonable detail in the notice calling the said meeting of unitholders or in any information circular to be provided by this Declaration of Trust or by law.
- (e) Where a material contract is made or a material transaction is entered into between the Trust and a Trustee or an officer of the Trust, or between the Trust and another person in which a Trustee or an officer of the Trust is a director or officer or in which he has a material interest:
 - (i) such person is not accountable to the Trust or to the Unitholders for any profit or gain realized from the material contract or transaction; and

- (ii) the material contract or transaction is neither void nor voidable, by reason only of that relationship or by reason only that such person is present at or is counted to determine the presence of a quorum at the meeting of the Trustees or the Investment Committee that authorized the material contract or transaction, if such person disclosed such person's interest in accordance with this Section 4.10, and the material contract or transaction was reasonable and fair to the Trust at the time it was so approved.
- (f) Notwithstanding anything in this Section 4.10, but without limiting the effect of Subsection 4.10(c) hereof, a Trustee or an officer of the Trust, acting honestly and in good faith, is not accountable to the Trust or to the Unitholders for any profit or gain realized from any such material contract or transaction by reason only of such person holding such office or position, and the material contract or transaction, if it was reasonable and fair to the Trust at the time it was approved, is not by reason only of such person's interest therein void or voidable, where:
 - (i) the material contract or transaction is confirmed or approved at a meeting of unitholders duly called for that purpose; and
 - (ii) the nature and extent of such person's interest in the material contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in any information circular to be provided by this Declaration of Trust or by law.
- (g) Subject to Subsections 4.10(c), 4.10(e) and 4.10(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 4.10, any Trustee or any Unitholder, in addition to exercising any other rights, or remedies in connection with such failure exercisable at law or in equity, may apply to a court for an order setting aside the material contract or transaction and directing that such person account to the Trust for any profit or gain realized.

4.11 Conditions Precedent

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

ARTICLE V **OFFICERS OF THE TRUST**

5.1 General

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

5.2 Chair of Trustees

The Chair of Trustees 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 at any time remove an officer from office at any time in their sole discretion. For greater certainty, each incumbent officer of the Trust shall continue in office until the earliest of (a) his resignation, which resignation shall be effective at the time a written resignation is received by the Trust upon 30 days' written notice or at the time specified in the resignation or in the officer's employment contract, whichever is later, (b) the appointment of his successor, (c) his removal or leave of absence due to incapacity, Adjudicated Incompetence or otherwise, and (d) his death.

5.4 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 VI **INVESTMENT GUIDELINES AND OPERATING POLICIES**

6.1 Investment Guidelines

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

- (a) the Trust will invest primarily, directly or indirectly, in the acquisition, holding, developing, maintaining, improving, leasing or management of income producing real property, and assets ancillary thereto necessary for the operation of such real property and such other activities as are consistent with the other investment guidelines of the Trust;
- (b) notwithstanding anything else contained in the Declaration of Trust, the Trust shall not make or hold any investment, take any action or omit to take any action or permit a Subsidiary to make or hold any investment or take any action or omit to take any action that would result in:
 - (i) the Trust not qualifying as a "mutual fund trust" or a "unit trust" both within the meaning of the Tax Act;
 - (ii) Trust Units not qualifying as qualified investments for Plans;
 - (iii) the Trust not qualifying as a "real estate investment trust" within the meaning of the Tax Act if, as a consequence of the Trust not so qualifying, the Trust or any of its Subsidiaries would be liable to pay a tax imposed under either paragraph 122(1)(b) or subsection 197(2) of the Tax Act; or
 - (iv) the Trust being liable to pay a tax under Part XII.2 of the Tax Act;

- (c) the Trust and/or its Subsidiaries may make its investments and conduct its activities, directly or indirectly, through an investment in one or more persons, on such terms as the Trustees may from time to time determine, including by way of joint ventures, partnerships (general or limited), and limited liability companies;
- (d) except for temporary investments held in cash, deposits with a Canadian chartered bank or trust company registered under the laws of a province or territory of Canada, deposits with a savings institution, trust company, credit union or similar financial institution that is organized or chartered under the laws of a state or of the United States, short-term government debt securities or money market instruments maturing prior to one year from the date of issue and except as permitted pursuant to these investment guidelines and operating policies of the Trust, the Trust and/or its Subsidiaries may not hold securities of a person other than to the extent such securities would constitute an investment in real property and provided further that, notwithstanding anything contained in the Declaration of Trust to the contrary, but in all events subject to paragraph (b) above, the Trust and/or its Subsidiaries may hold securities of a person (including securities of a reporting issuer or equivalent concept): (i) acquired in connection with the carrying on, directly or indirectly, of the Trust's activities or the holding of its assets; or (ii) which focuses its activities primarily on the activities described in paragraph (a) above;
- (e) the Trust and/or its Subsidiaries shall not invest in rights to or interests in mineral or other natural resources, including oil or gas, except as incidental to an investment in real property;
- (f) the Subsidiaries of the Trust may invest in mortgages and mortgage bonds (including participating or convertible mortgages) and similar instruments where the real property which is security therefor is real property which otherwise meets the other investment guidelines of the Trust;
- (g) subject to paragraph (b) above, the Trust and/or its Subsidiaries may invest in raw land for development provided such investment wholly or jointly is for the purpose of (i) the renovation or expansion of existing facilities that are capital property of the Trust or a Subsidiary of the Trust, (ii) the development of new projects which will be capital property of the Trust or a Subsidiary of the Trust; or (iii) otherwise consistent with the activities described in paragraph (a) above; and
- (h) unless otherwise specifically prohibited by the Declaration of Trust, the Trust and/or its Subsidiaries may invest in fee simple, leasehold, or other interests in property (real, personal, moveable or immovable).

6.2 Operating Policies

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

- (a) the Trust and/or its Subsidiaries shall not purchase or sell currency or interest rate futures contracts otherwise than for hedging purposes where, for this purpose, the term "hedging" has the meaning given by National Instrument 81-102 – *Mutual Funds*, as replaced or amended from time to time and, in all events, subject to Section 6.1(b);
- (b) (i) any written instrument creating indebtedness or an obligation which is or includes the granting by the Trust of a mortgage; and (ii) to the extent the Trustees determine to be practicable and consistent with their fiduciary duties to act in the best interest of the unitholders, any written instrument which is, in the judgment of the Trustees, a material obligation, shall contain a provision, or be subject to an acknowledgement to the effect, that the obligation being created is not personally binding upon, and that resort must not

be had to, nor will recourse or satisfaction be sought from, by lawsuit or otherwise the private property of any of the Trustees, unitholders, annuitants or beneficiaries under a plan of which a unitholder acts as a trustee or carrier, or officers, employees or agents of the Trust, but that only property of the Trust or a specific portion thereof is bound;

- (c) title to real property shall be held by and registered in the name of the Trust, a Subsidiary of the Trust, one or more of the Trustees or any other person or persons in such manner as the Trustees consider appropriate, taking into account advice of legal counsel;
- (d) the Trust shall not incur or assume any indebtedness if, after giving effect to the incurrence or assumption of such indebtedness, the total indebtedness of the Trust would be more than 70% of Gross Book Value;
- (e) the Trust shall not directly or indirectly guarantee any indebtedness or liabilities of any person unless such guarantee: (i) is given in connection with or incidental to an investment that is otherwise permitted by the Trust's investment guidelines and operating policies; and (ii) (A) would not disqualify the Trust as a "mutual fund trust" within the meaning of the Tax Act, and (B) would not result in the Trust losing any status under the Tax Act that is otherwise beneficial to the Trust and its Unitholders;
- (f) the Trust and/or its Subsidiaries shall directly or indirectly obtain and maintain at all times property insurance coverage in respect of potential liabilities of the Trust or its Subsidiaries and the accidental loss of value of the assets of the Trust or its Subsidiaries from risks, in amounts, with such insurers, and on such terms as the Trustees consider appropriate, taking into account all relevant factors, including the practice of owners of comparable properties;

References in the investment guidelines and operating policies in Sections 6.1 and 6.2 to investment in real property are deemed to include direct and indirect investments in joint ventures, partnerships and other arrangements that invest in real property.

6.3 Amendments to Investment Guidelines and Operating Policies

All of the investment guidelines set out in Section 6.1 and the operating policies contained in Subsections 6.2(a), 6.2(b) and 6.2(e) may be amended only with the approval of not less than two-thirds of the votes cast by unitholders at a meeting called for such purpose (or a written resolution signed by unitholders representing at least two-thirds of the outstanding Trust Units). The remaining operating policies may be amended with the approval of a majority of the votes cast by unitholders at a meeting called for such purpose (or a written resolution signed by unitholders representing at least a majority of the outstanding Trust Units).

6.4 Tax Status

The Trustees shall cause the Trust to elect, in its return of income for the first taxation year of the Trust, pursuant to Subsection 132(6.1) of the Tax Act, that the Trust be deemed to be a "mutual fund trust" for the purposes of the Tax Act, provided that prior to filing such return of income the Trust has sufficient Unitholders so as to be entitled to make such election and has otherwise complied with the requirements thereof. Notwithstanding anything else contained in this Declaration of Trust, the Trust shall not make any investment, take any action or omit to take any action that would result in the Trust failing or ceasing to qualify as a "mutual fund trust" and a "real estate investment trust" within the meaning of the Tax Act (effective the date it was established and thereafter).

6.5 Application of Investment Guidelines and Operating Policies

With respect to the investment guidelines and operating policies contained in Sections 6.1 and 6.2 and where any maximum or minimum percentage limitation is specified in any of the guidelines and policies therein contained, such guidelines and policies shall, unless otherwise specified, be applied on the basis of the

relevant amounts calculated immediately after the making of such investment or the taking of such action. Any subsequent change relative to any percentage limitation, which results from a subsequent change in the Gross Book Value, will not require divestiture of any investment.

6.6 Regulatory Matters

If at any time a government or regulatory authority having jurisdiction over the Trust or any property of the Trust shall enact any law, regulation or requirement which is in conflict with any investment guideline or operating policy of the Trust then in force (other than Subsection 6.1(b)), such guideline or operating policy in conflict shall, if the Trustees on the advice of legal counsel to the Trust so resolve, be deemed to have been amended to the extent necessary to resolve any such conflict and, notwithstanding anything to the contrary herein contained, any such resolution of the Trustees shall not require the prior approval of Unitholders.

ARTICLE VII UNITS

7.1 Units

- (a) The interests in the Trust shall be divided into three classes, described and designated as "Trust Units", "Special Voting Units", and "Special Units" respectively, which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein. Each Trust Unit, Special Voting Unit and Special Unit shall vest indefeasibly in the holder thereof and the interest of each unitholder shall be determined by the number of Trust Units, Special Voting Units and Special Units registered in the name of the Trust Unitholder, Special Voting Unitholder, and Special Unitholder, respectively.
- (b) The interest of each unitholder shall be determined by the number of Units registered in the name of the unitholder. The number of Trust Units and Special Voting Units that the Trust may issue shall be unlimited. The aggregate number of Special Units which is authorized and may be issued hereunder is one-hundred (100).
- (c) The issued and outstanding Trust Units, Special Voting Units and Special Units may be subdivided or consolidated from time to time by the Trustees without notice to or approval of the unitholders.

7.2 Special Voting Units

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

7.3 Trust Units and Special Units

(a) Trust Units

Each Trust Unit shall represent a proportionate, undivided beneficial ownership interest in the Trust and shall confer the right to one vote at any meeting of unitholders and to participate pro rata in any distributions by the Trust, whether of net income, net realized capital gains or other amounts, and, in the event of termination or winding-up of the Trust, in the net assets of the Trust remaining after satisfaction of all liabilities. No Trust Unit shall have any preference or priority over any other. Trust Units shall rank among themselves equally and ratably without discrimination, preference or priority. Trust Units will be fully paid and non-assessable when issued (unless issued on an installment receipt basis) and are transferable. Trust Units are redeemable at the holder's option, as described under Section 7.14 below.

(b) Special Units

The Special Units shall have the following attributes:

- (i) All Special Units shall rank among themselves equally and rateably without discrimination, preference or priority.
- (ii) Notwithstanding anything to the contrary in Article XI, the holders of Special Units, in priority to Trust Units, shall be entitled to receive an annual preferential distribution equal to \$1000 per Special Unit. No distributions shall at any time be declared and paid on or set apart for payment on the Trust Units in respect unless and until the full amount of any distributions payable on the Special Units have been paid or funds have been set aside for the payment thereof.
- (iii) A holder of Special Units shall not be entitled to vote at any meeting of Unitholders or in respect of any written resolution of Unitholders.
- (iv) The Trust shall be entitled to redeem all or any portion of the outstanding Special Units at an amount per Special Unit (the "**Special Unit Redemption Amount**") equal to the redemption value described in the definition of "Special Unit" in the Plan of Arrangement, attached as Appendix E to the Information Circular dated October 18, 2024 (the "**Plan of Arrangement**").
- (v) A holder of Special Units shall be entitled to require the Trust to redeem, at any time or from time to time, on demand, all or any portion of the Special Units held for the Special Unit Redemption Amount for each Special Unit. A Special Unit will be redeemed in accordance with the provisions of Section 7.14, *mutatis mutandis*, except that the Redemption Price will be the Special Unit Redemption Amount and Section 7.14(d) shall not be applicable.
- (vi) Notwithstanding anything to the contrary in Article XV, in the event of the liquidation, dissolution or winding up of the Trust, the holders of the Special Units shall be entitled to receive from the assets of the Trust a sum equivalent to the Special Unit Redemption Amount for each Special Unit held before any amount shall be paid or any property or assets of the Trust shall be distributed to holders Trust Units. After payment as above to the holders of the Special Units, such holders shall not be entitled to share in any further distribution of the assets of the Trust in respect of their Special Units.
- (vii) Only a Resident may hold a Special Unit.

7.4 Consideration for Units

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

7.5 Pre-Emptive Rights

Subject to any binding agreement entered into by the Trust, no person shall be entitled, as a matter of right, to subscribe for or purchase any Units of the Trust. There are no pre-emptive rights attaching to the Units.

7.6 Fractional Units

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

7.7 Allotment and Issue

The Trustees may allot and issue Units at such time or times and in such manner (including, without limitation, pursuant to any plan from time to time in effect relating to reinvestment by Unitholders of distributions of the Trust in Units and as consideration for the acquisition of new properties or assets, at a price or for such consideration as determined by the Trustees) and for such consideration and to such person, persons or class of persons as the Trustees in their sole discretion shall determine, except that (i) Special Voting Units may only be issued in connection with or in relation to Exchangeable Securities for the purpose of providing voting rights to the holders of such securities with respect to the Trust, and (ii) Special Units may only be issued as part of the Arrangement provided that all the issued and outstanding Special Units issued under the Arrangement are also cancelled as part of the Arrangement. In the event that Units are issued in whole or in part for a consideration other than money, the resolution of the Trustees allotting and issuing such Units shall express the fair equivalent in money of the other consideration received. The price or value of the consideration for which Units may be issued will be determined by the Trustees in their sole discretion, generally in consultation with investment dealers or brokers who may act as underwriters in connection with offerings of Units.

7.8 Rights, Warrants and Options

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

Subject to the provisions of Article VI hereof, the Trustees may create and issue indebtedness of the Trust in respect of which interest, premium or principal payable thereon may be paid, at the option of the Trust or the

holder, in fully paid Trust Units, or which indebtedness, by its terms, may be convertible into Trust Units at such time and for such prices as the Trustees may determine. Any indebtedness so created shall not be a Trust Unit and a holder thereof shall not be a Unitholder unless and until fully paid Trust Units are issued in accordance with the terms of such indebtedness.

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

7.10 Transferability

The Trust Units are freely transferable and, except as stipulated in Section 7.12, the Trustees shall not impose any restriction on the transfer of Trust Units by any Trust Unitholder except with the consent of such Trust Unitholder. Special Voting Units will not be transferable separately from the Exchangeable Securities to which they are attached and will be automatically transferred upon the transfer of such securities.

7.11 Transfer of Units

- (a) Subject to the provisions of this Article VII, the Units shall be for all purposes of the Trust and this Declaration of Trust, personal and moveable property, and the Units shall be fully transferable without charge as between persons, but no transfer of Units shall be effective as against the Trustees or shall be in any way binding upon the Trustees until the transfer has been recorded on the Register maintained by the Trustees, the Trust or the Transfer Agent. No transfer of a Unit shall be recognized unless such transfer is of a whole Unit.
- (b) Subject to the provisions of this Article VII, 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 or branch transfer registers 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.
- (c) Unit Certificates representing any number of Trust Units may be exchanged without charge for Unit Certificates representing an equivalent number of Trust Units in the aggregate. Any exchange of Unit Certificates may be made at the offices of the Trust or the Transfer Agent where registers are maintained for Unit Certificates pursuant to the provisions of this Article VII. Any Unit Certificates tendered for exchange shall be surrendered to the Trustees or appropriate Transfer Agent and then shall be cancelled.

7.12 Non-Resident Ownership Constraint

At no time may Non-Residents be the beneficial owners of more than 49% of the Units or more than 49% of the convertible debentures of the Trust then outstanding and the Trustees will inform the Transfer Agent and registrar of this restriction and shall take such actions as may reasonably be undertaken on behalf of the Trust to cause the Trust to maintain its mutual fund trust status. The Trustees shall monitor the level of beneficial ownership of Units by Non-Residents using available information (including reports showing geographic beneficial ownership of Units) at intervals which are reasonable in the circumstances. The Trustees may also

require declarations as to the jurisdictions in which beneficial owners of Units are resident for the purposes of the Tax Act. If the Trustees become aware, as a result of requiring such declarations as to beneficial ownership or otherwise, that the beneficial owners of 49% of the Units or the convertible debentures of the Trust then outstanding are, or may be, Non-Residents or that such a situation is imminent, the Trustees may make a public announcement thereof and the Transfer Agent shall not accept a subscription for Units from or issue Units to a person unless the person provides a declaration that the person is not a Non-Resident.

If, notwithstanding the foregoing, the Trustees determine that more than 49% of the Units or the Convertible Debentures are held by Non-Residents, the Trustees may send a notice to Non-Resident holders of Units, chosen in inverse order to the order of acquisition or registration or in such other manner as the Trustees may consider equitable and practicable, requiring them to sell their Units or a portion thereof within a specified period of not less than 60 days. If the Unitholders receiving such notice have not sold the specified number of Units or provided the Trustees with satisfactory evidence that they are not Non-Residents within such period, the Trustees may, on behalf of such Unitholders sell such Units without further notice and, in the interim, must suspend the voting and distribution rights attached to such Units. Upon such sale the affected holders shall cease to be holders of Units and their rights will be limited to receiving the net proceeds of sale, subject to the right to receive payment of any distribution declared by the Trustees which is unpaid and owing to such Unitholders. The Trustees shall have no liability for the amount received provided that they act in good faith.

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

For greater certainty, the Trust may sell Units in accordance with the terms hereof despite the fact that the Trust does not possess the Unit Certificate or Unit Certificates, if any, representing the Units at the time of the sale. Where, in accordance with this Section 7.12, Units are sold by the Trust without possession of the Unit Certificate or Unit Certificates, if any, representing the same and, after the sale, a person establishes that it is a *bona fide* purchaser without notice of the Units from the Unitholder, then, subject to applicable law:

- (a) the Trust shall be entitled to treat the Units so purchased by the *bona fide* purchaser as validly issued and outstanding Units in addition to the Units sold by the Trust; and
- (b) notwithstanding any other provisions of this Declaration of Trust, the Trust is entitled to the amount paid by the *bona fide* purchaser made with respect to such sale and shall add such amount 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 7.12. The Trustees shall make all determinations necessary for the administration of the provisions of this Section 7.12 and, without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a contravention of the non-resident ownership restriction has occurred or will occur, the Trustees shall make a determination with respect to the matter. Any such determination shall be conclusive, final and binding except to the extent modified by any subsequent determination by the Trustees. Notwithstanding the foregoing, the Trustees may delegate, in whole or in part, their power to make a determination to any officer of the Trust.

If the Tax Act is (or is proposed to be) amended in a manner which places new restrictions on Non-Residents beneficially owning Units, the Trustees, acting reasonably, may take any action they consider necessary to ensure, to the extent practicable, that the Trust maintain its mutual fund trust status.

Notwithstanding the foregoing, the Trustees may take into consideration in complying with this Section 7.12, any Exchangeable Securities owned by Non-Residents.

7.13 Non-Certificated Inventory System

- (a) The provisions of this Section 7.13 shall not in any way alter the nature of Units or the relationships of a Unitholder to the Trustees and of one Unitholder to another but are intended only to facilitate the recording of all transactions in respect of Trust 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 Trust Units held through CDS, or its nominee, will be made electronically through the NCI system of CDS. Units held in CDS will be purchased, transferred and surrendered for redemption through a CDS Participant. All rights of beneficial Trust Unitholders who hold Trust Units in CDS must be exercised through, and all payments or other property to which such beneficial Trust Unitholders are entitled will be made or delivered by CDS or the CDS Participant through which the beneficial Trust Unitholder holds such Trust Units. A beneficial holder of a Trust 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 Trust Units, nor, to the extent applicable, will such beneficial Trust 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 Trust 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 Trust 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 Trust Units, and sales of interests in the Trust Units can only be completed through CDS Participants.
- (d) Trust Units may be issued in fully registered form to holders or their nominees, if any, who purchase the Trust Units pursuant to a private placement of Trust Units made in reliance upon Rule 144A adopted under the United States Securities Act of 1933, and to transferees thereof in the United States who purchase such Trust Units in reliance upon Rule 144A. Likewise, any Trust Units transferred to a transferee within the United States or outside the United States to a "U.S. Person" (within the meaning of Regulation S) may be evidenced in definitive certificates representing any such Trust Units unless the Trust otherwise agrees that such Trust Units need not be evidenced in definitive certificates. If any such Trust Units represented by definitive certificates are subsequently traded into Canada, or otherwise outside the United States in compliance with Regulation S, the Transfer Agent will electronically deliver such Trust Units registered to CDS or its nominee, and CDS will credit interests in such Trust Units to the accounts of the CDS Participants as directed by the Transfer Agent.
- (e) Except as noted in the foregoing paragraph, Trust Units will be issued in fully registered form to holders or their nominees, other than CDS or its nominee, only if: (i) the Trust is required to do so by applicable law; (ii) the depository system of CDS ceases to exist; (iii) the Trust determines that CDS is no longer willing, able or qualified to discharge properly its responsibility as depository and the Trust is unable to locate a qualified successor; (iv) the Trust at its option elects to prepare and deliver definitive certificates representing the Trust Units; or (v) the Trust at its option elects to terminate the NCI system in respect of the Trust Units through CDS.
- (f) All references herein to actions by, notices given or payments made to Trust Unitholders shall, where such Trust 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' rules and procedures. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of Trust Unitholders evidencing a

specified percentage of the aggregate Units outstanding, such direction or consent may be given by Trust Unitholders acting through CDS and the CDS Participants owning Trust Units evidencing the requisite percentage of the Units, subject to the voting rights of holders of Special Voting Units. The rights of a Trust Unitholder whose Trust 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 Trust 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 Trust Unitholders and such dealing with CDS shall constitute satisfaction or performance, as applicable, towards their respective obligations hereunder.

- (g) For so long as Trust Units are held through CDS, if any notice or other communication is required to be given to Trust Unitholders, the Trustees and the Transfer Agent will give all such notices and communications to CDS.
- (h) If CDS resigns or is removed from its responsibilities as depository and the Trustees are unable or do not wish to locate a qualified successor, CDS shall surrender the Trust Units held by it to the Transfer Agent with instructions from CDS for registration of Trust 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 Trust Units then outstanding in the form of definitive Unit Certificates representing such Trust Units.

7.14 Redemption of Trust Units

- (a) Each Trust Unitholder shall be entitled to require the Trust to redeem at any time or from time to time at the demand of the Trust Unitholder all or any part of the Trust Units registered in the name of the Trust Unitholder at the prices determined and payable in accordance with the conditions hereinafter provided.
- (b) To exercise a Trust Unitholder's right to require redemption under this Section 7.14, a duly completed and properly executed notice requiring the Trust to redeem Trust Units, in a form reasonably acceptable to the Trustees, together with written instructions as to the number of Trust 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 Trust Unitholder not otherwise holding a registered Trust Unit certificate that wishes to exercise the redemption right will be required to obtain a redemption notice form from the Trust Unitholder's investment dealer who will be required to deliver the completed redemption notice form to the Trust and to CDS. No form or manner of completion or execution shall be sufficient unless the same is in all respects 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.
- (i) Upon receipt by the Transfer Agent and the Trust of the notice to redeem Trust Units, the Trust Unitholder shall thereafter cease to have any rights with respect to the Trust Units tendered for redemption (other than to receive the redemption payment therefor) including the right to receive any distributions thereon which are declared payable to the Trust Unitholders of record on a date which is subsequent to the day of receipt by the Trust of such notice. Trust Units shall be considered to be tendered for redemption on the date that the Trust has, to the satisfaction of the Trustees, received the notice and other required documents or evidence as aforesaid.
- (c) (i) Upon receipt by the Transfer Agent and the Trust of the notice to redeem Trust Units in accordance with this Section 7.14, the holder of the Trust Units tendered

for redemption shall be entitled to receive a price per Trust Unit (the "**Redemption Price**") equal to the lesser of:

- (A) 90% of the "market price" of the Trust Units calculated on the date (the "**Redemption Date**") on which the Trust Units were surrendered for redemption; and
- (B) 100% of the "closing market price" on the principal market on which the Trust Units are listed for trading, on the Redemption Date.

For the purposes of this calculation, "market price" as at a specified date will be:

- (C) an amount equal to the weighted average trading price of a Trust Unit on the principal exchange or market on which the Trust Units are listed or quoted for trading during the period of 10 consecutive trading days ending on such date;
- (D) an amount equal to the weighted average of the closing market prices of a Trust Unit on the principal exchange or market on which the Trust Units are listed or quoted for trading during the period of 10 consecutive trading days ending on such date, if the applicable exchange or market does not provide information necessary to compute a weighted average trading price; or
- (E) if there was trading on the applicable exchange or market for fewer than five of the 10 trading days, an amount equal to the simple average of the following prices established for each of the 10 consecutive trading days ending on such date: the simple average of the last bid and last asking price of the Trust Units for each day on which there was no trading; the closing price of the Trust Units for each day that there was trading if the exchange or market provides a closing price; and the simple average of the highest and lowest prices of the Trust Units for each day that there was trading, if the market provides only the highest and lowest prices of Trust Units traded on a particular day.

The "closing market price" of a Trust Unit for the purpose of the foregoing calculations, as at any date will be:

- (F) an amount equal to the weighted average trading price of a Trust Unit on the principal exchange or market on which the Trust Units are listed or quoted for trading on the specified date and the principal exchange or market provides information necessary to compute a weighted average trading price of the Trust Units on the specified date;
- (G) an amount equal to the closing price of a Trust Unit on the principal market or exchange if there was a trade on the specified date and the principal exchange or market provides only a closing price of the Trust Units on the specified date;
- (H) an amount equal to the simple average of the highest and lowest prices of the Trust Units on the principal market or exchange, if there was trading on the specified date and the principal exchange or market provides only the highest and lowest trading prices of the Trust Units on the specified date; or

- (I) the simple average of the last bid and last asking prices of the Trust Units on the principal market or exchange, if there was no trading on the specified date.

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

- (ii) Subject to Subsections 7.14(d) and 7.14(e), the Redemption Price payable in respect of the Trust Units tendered for redemption during any calendar month shall be paid by cheque, drawn on a Canadian chartered bank or a trust company in lawful money of Canada, payable at par to, or to the order of, the Trust Unitholder who exercised the right of redemption within 30 days after the end of the calendar month in which the Trust Units were tendered for redemption. Payments made by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former Trust Unitholder unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former Trust Unitholder in respect of the Trust Units so redeemed.
- (d) Paragraph 7.14(c)(ii) shall not be applicable to Trust Units tendered for redemption by a Trust Unitholder, if:
- (i) the total amount payable by the Trust pursuant to Subsection 7.14(c) in respect of such Trust Units and all other Trust Units tendered for redemption in the same calendar month exceeds \$50,000 (the "**Monthly Limit**") provided that the Trustees may, in their sole discretion, waive such limitation in respect of all Trust Units tendered for redemption in any calendar month and, in the absence of such a waiver, Trust Units tendered for redemption in any calendar month in which the total amount payable by the Trust pursuant to Paragraph 7.15(c)(ii) exceeds the Monthly Limit will be redeemed for cash pursuant to Paragraph 7.15(c)(ii) and, subject to any applicable regulatory approvals, by an issuance under Section 7.14(e), on a pro rata basis;
 - (ii) on the date the Trust Units are tendered for redemption, the outstanding Trust Units are not listed for trading on the TSX or traded or quoted on any stock exchange or market which the Trustees consider, in their sole discretion, provides representative fair market value prices for the Trust Units;
 - (iii) the normal trading of the outstanding Trust Units is suspended or halted on any stock exchange on which the Trust Units are listed for trading, or if not so listed, on any market on which the Trust Units are quoted for trading, on the Redemption Date for such Trust Units or for more than five trading days during the 10 day trading period commencing immediately before the Redemption Date for such Trust Units; or
 - (iv) the redemption of the Trust Units will result in the delisting of the Trust Units from the principal stock exchange on which the Trust Units are listed.
- (e) To the extent that Paragraph 7.14(c)(ii) is not applicable to all of the Trust Units tendered for redemption by a Trust Unitholder pursuant to Subsection 7.14(d), the balance of the Redemption Price per Trust Unit specified in Subsection 7.14(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 the issuance to such Trust Unitholder of Redemption Notes. Upon such payment, together with any cash payable to the Trust Unitholder pursuant to Paragraph 7.14(c)(ii), the Trust shall be discharged from all liability

to such former Trust Unitholder and any party having a security interest in respect of the Trust Units so redeemed. In the event of the issuance of Redemption Notes, each Redemption Note so issued to the redeeming holder of Trust Units shall be in the principal amount of \$100 or such other amount as may be determined by the Trustees. No fractional Redemption Notes shall be issued and where the number of Redemption Notes to be received upon redemption by a holder of Trust 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 Trust Unitholder pursuant to this Article VII all amounts required by law to be so withheld.

- (f) Some or all of the Trust income and the net realized capital gains may, for purposes of computing the Trust income and the net realized capital gains under the Tax Act or other tax legislation be treated as having been paid in the year by the Trust to the Trust Unitholders redeeming Trust Units in such year and, to the extent that the amount thereof so treated as has been designated as taxable capital gains or income to such Trust Unitholders, the holder's redemption proceeds shall be reduced accordingly. Any such amounts shall be determined at the discretion of the Trustees; however, in all cases, a redeeming Trust Unitholder will be treated as having been paid an amount to which the holder of the Trust Units redeemed would be entitled to receive.
- (g) All Trust Units redeemed under this Section 7.14 shall be cancelled and such Trust Units shall no longer be outstanding and shall not be reissued.
- (h) The Trustees shall be entitled to make all applicable withholdings on payments made in this Section 7.14 as are required by applicable tax laws.

7.15 Certificate Fee

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

7.16 Form of Unit Certificate

The form of certificate representing Trust 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.

7.17 Unit Certificates

- (a) Unit Certificates shall, subject to the provisions hereof, be in such form as is authorized from time to time by the Trustees.
- (b) If issued, Unit Certificates are issuable only in fully registered form.
- (c) The definitive form of the Unit Certificates shall:
 - (i) be in the English language or in the English language and the French language;
 - (ii) be dated as of the date of issue thereof; and
 - (iii) contain such distinguishing letters and numbers as the Trustees shall prescribe.
- (d) In the event that the Unit Certificate is translated into the French language and any provision of the Unit Certificate in the French language shall be susceptible of an interpretation different from the equivalent provision in the English language, the interpretation of such provision in the English language shall be determinative.

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

7.18 Contents of Unit Certificates

- (a) Until otherwise determined by the Trustees, each Unit Certificate shall legibly set forth on the face thereof, inter alia, the following:
 - (i) the name of the Trust and the words "A trust governed under the laws of the Province of Ontario governed by an Amended and Restated Declaration of Trust made the 27th day of November, 2015, as amended from time to time" or words of like effect;
 - (ii) the name of the person to whom the Unit Certificate is issued as Unitholder;
 - (iii) the number of Units represented thereby and whether or not the Units represented thereby are fully paid;
 - (iv) that the Units represented thereby are transferable;
 - (v) the words "The Units represented by this certificate are issued upon the terms and subject to the conditions of the Declaration of Trust, which Declaration of Trust is binding upon all holders of Units and, by acceptance of this certificate, the holder assents to the terms and conditions of the Declaration of Trust. A copy of the Declaration of Trust, pursuant to which this certificate and the Units represented thereby are issued, may be obtained by a Unitholder on demand and without fee from the head office of the Trust" or words of like effect; and
 - (vi) the words "For information as to personal liability of a Unitholder, see the reverse side of this certificate" or words of like effect.
- (b) Until otherwise determined by the Trustees, each such certificate shall legibly set forth on the reverse side thereof, inter alia, the following:
 - (i) the words "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.

7.19 Register of Unitholders

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

7.20 Successors in Interest to Unitholders

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

7.21 Units Held Jointly or in Fiduciary Capacity

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

7.22 Performance of Trusts

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

7.23 Lost Unit Certificates

In the event that any Unit Certificate is lost, stolen, destroyed or mutilated, the Trustees may authorize the issuance of a new Unit Certificate for the same number of Trust 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 property of the Trust 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.

7.24 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 property of the Trust, 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.

7.25 Unclaimed Payments

In the event that the Trustees hold any amounts to be paid to Trust Unitholders under Article XI 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.

7.26 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.

7.27 Take-Over Bids

- (a) If within 120 days after the date of a take-over bid the bid is accepted by the holders of not less than 90% of the Units, calculated on a fully diluted basis, other than Units held at the date of the take-over bid by or on behalf of the offeror or an affiliate or associate of the offeror, the offeror is entitled, on complying with this Section 7.27, 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 take-over bid by or on behalf of the offeror or an affiliate or associate of the offeror;
 - (ii) the offeror is bound to take up and pay for or has taken up and paid for the Units of the offerees who accepted the take-over bid;

- (iii) a dissenting offeree is required to elect:
 - (A) to transfer his Units to the offeror on the terms on which the offeror acquired the Units of the offerees who accepted the takeover bid, or
 - (B) to demand payment of the fair value of his Units in accordance with Subsections 7.27(h) to 7.27(q) by notifying the offeror within 20 days after he receives the offeror's notice;
- (iv) a dissenting offeree who does not notify the offeror in accordance with Subparagraph 7.27(b)(iii)(B) is deemed to have elected to transfer his Units to the offeror on the same terms that the offeror acquired the Units from the offerees who accepted the take-over bid; and
- (v) a dissenting offeree must send his Units to which the take-over bid relates to the Trust within 20 days after he receives the offeror's notice.
- (c) Concurrently with sending the offeror's notice under Subsection 7.27(b), the offeror shall send to the Trust a notice of adverse claim disclosing the name and address of the offeror and the name of the dissenting offeree with respect to each Unit held by a dissenting offeree.
- (d) A dissenting offeree to whom an offeror's notice is sent under Subsection 7.27(b) shall, within 20 days after he receives that notice, send his Unit Certificates to the Trust.
- (e) Within 20 days after the offeror sends an offeror's notice under Subsection 7.27(b), the offeror shall pay or transfer to the Trust the amount of money or other consideration that the offeror would have had to pay or transfer to a dissenting offeree if the dissenting offeree had elected to accept the take-over bid under Subparagraph 7.27(b)(iii)(A).
- (f) The Trust is deemed to hold in trust for the dissenting offeree the money or other consideration it receives under Subsection 7.27(e) and the Trust shall deposit the money in a separate account in a bank or other body corporate any deposits of which are insured by the Canada Deposit Insurance Corporation or guaranteed by the Québec Deposit Insurance Board, and shall place the other consideration in the custody of a bank or such other body corporate.
- (g) Within 30 days after the offeror sends an offeror's notice under Subsection 7.27(b), the Trust shall:
 - (i) issue to the offeror a Unit Certificate in respect of the Units that were held by dissenting offerees;
 - (ii) give to each dissenting offeree who elects to accept the take-over bid terms under Subparagraph 7.27(b)(iii)(A) and who sends his Unit Certificates, as required under Subsection 7.27(d), the money or other consideration to which he is entitled, disregarding fractional Units, if any, which may be paid for in money; and
 - (iii) send to each dissenting offeree who has not sent his Unit Certificates, as required under Subsection 7.27(d) a notice stating that:
 - (A) his Units have been cancelled,

- (B) the Trust or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his Units, and
 - (C) the Trust will, subject to Subsections 7.27(h) to 7.27(q), send that money or other consideration to him forthwith after receiving his Units.
- (h) If a dissenting offeree has elected to demand payment of the fair value of his Units under Subparagraph 7.27(b)(iii)(B), the offeror may, within 20 days after it has paid the money or transferred the other consideration, under Subsection 7.27(e), apply to a court to fix the fair value of the Units of that dissenting offeree.
- (i) If an offeror fails to apply to a court under Subsection 7.27(h), a dissenting offeree may apply to a court for the same purpose within a further period of 20 days.
- (j) Where no application is made to a court under Subsection 7.27(i) within the period set out in that subsection, a dissenting offeree is deemed to have elected to transfer his Units to the offeror on the same terms that the offeror acquired the Units from the offerees who accepted the take-over bid.
- (k) An application under Subsections 7.27(h) or 7.27(i) shall be made to a court having jurisdiction in the place where the Trust has its registered office.
- (l) A dissenting offeree is not required to give security for costs in an application made under Subsections 7.27(h) or 7.27(i).
- (m) On an application under Subsections 7.27(h) or 7.27(i):
 - (i) all dissenting offerees referred to in Subparagraph 7.27(b)(iii)(B) whose Units have not been acquired by the offeror shall be joined as parties and shall be bound by the decision of the court; and
 - (ii) the offeror shall notify each affected dissenting offeree of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel.
- (n) On an application to a court under Subsections 7.27(h) or 7.27(i) the court may determine whether any other person is a dissenting offeree who should be joined as a party, and the court shall then fix a fair value for the Units of all dissenting offerees.
- (o) A court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the Units of a dissenting offeree.
- (p) The final order of the court shall be made against the offeror in favour of each dissenting offeree and for the amount for his Units as fixed by the court.
- (q) In connection with proceedings under this Section 7.27, a court may make any order it thinks fit and, without limiting the generality of the foregoing, it may:
 - (i) fix the amount of money or other consideration that is required to be held in trust under Subsection 7.27(f);
 - (ii) order that money or other consideration be held in trust by a person other than the Trust; and

- (iii) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date he sends or delivers his Unit Certificates under Subsection 7.27(d) until the date of payment.
- (r) Where an offeror is entitled to acquire Units held by a dissenting offeree pursuant to Subsection 7.27(b) and the offeror wishes to exercise such right, the offeror shall also deliver an offer (the "**Exchange Offer**") to the Trustees, at the same time that an offeror's notice is delivered pursuant to Subsection 7.27(b), addressed to each holder of Exchangeable Securities to acquire all Trust Units issued to such holder by the Trust following the exchange of the holder's Exchangeable Securities for Trust Units. The Exchange Offer shall be made on the same terms as the offeror, if accepted by a holder of Exchangeable Securities, acquired the Trust Units of the Trust Unitholders who accepted the take-over bid and the exchange by the holder of the Exchangeable Securities and the acquisition by the offeror of the Trust Units issuable upon exchange thereof shall occur within 30 days of delivery of the Exchange Offer to the Trustees. The Trustees shall deliver the Exchange Offer to each holder of Exchangeable Securities forthwith upon receipt, if any such holders exist.
- (s) In the event that a non-exempt take-over bid from a person acting at arm's length to holders of Exchangeable Securities (or any affiliate or associate thereof) is made for Trust Units, unless the take-over bid is structured to permit holders of Exchangeable Securities to both exchange and tender conditional on take-up, then, from and after the first take-up of Trust Units under the said take-over bid (provided that not less than 25% of the Trust Units other than Trust Units held at the date of the take-over bid by the offeror or associates or affiliates of the offeror are so taken up) the terms and conditions of the Exchangeable Securities will be amended such that the exchange ratio shall be varied to equal 110% of the exchange ratio then in effect (such that on conversion, exercise or exchange the holder shall receive 1.1 Trust Units for each Trust Unit that the holder would otherwise have received). For greater certainty, notwithstanding any adjustment contemplated by this section, the holders of such Exchangeable Securities shall not be entitled to any adjustment to their entitlement to distributions until such time as such Exchangeable Securities are exchanged for Trust Units.

7.28 Renouncing Beneficial Interests in the Trust Held by Special Unitholders

A Special Unitholder that is a direct or indirect Subsidiary of the Trust may renounce the interest that such Special Unitholder has in the Trust ("**Renunciation**") provided that such Special Unitholder has provided (or is deemed to have provided) notice to the Trustees in the form prescribed herein (a "**Renunciation Notice**"). The Renunciation Notice must indicate: (i) the holder of the Special Units; (ii) the number of Special Units held; (iii) the effective date of the Renunciation; (iv) an acknowledgement that (A) the holder is irrevocably surrendering, disclaiming, releasing and renouncing all rights and benefits in the Trust (income, capital or otherwise) from and after the effective date of the Renunciation, (B) the Renunciation is not in exchange for any consideration from the Trust, and (C) the Renunciation is not in favour of any other person. Provided that a Renunciation Notice has been received (or is deemed to have been received) by the Trustees, the Trustees from and after the effective date specified in the Renunciation Notice shall accept the Renunciation and (i) shall remove such former Special Unitholder as a beneficiary of the Trust, and (ii) cancel such Special Units specified in the Renunciation Notice for no consideration.

ARTICLE VIII **MEETINGS OF UNITHOLDERS**

8.1 Annual Meeting

There shall be an annual meeting of the unitholders, commencing in 2016 (for the Trust's 2015 fiscal year), at such time and place in Canada and for such other purposes as the Trustees may prescribe for the purpose of electing Trustees, appointing or removing the Auditors of the Trust and transacting such other business as

the Trustees may determine or as may properly be brought before the meeting. The annual meeting of unitholders shall be held after delivery to the unitholders of the annual report referred to in Section 17.8 and, in any event, within 270 days after the end of each Fiscal Year.

8.2 Other Meetings

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

- (a) a record date for a meeting of the unitholders has been fixed and notice thereof has been given to each stock exchange in Canada on which the Units are listed for trading;
- (b) the Trustees have called a meeting of the unitholders and have given notice thereof pursuant to Section 8.3; 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 the matter covered by the 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 8.2 are being abused to secure publicity.

Subject to the foregoing, if the Trustees do not within 21 days after receiving the requisition call a meeting, any unitholder who signed the requisition may call the meeting in accordance with the provisions of Section 8.3 and Section 8.9 and the Trustees' Regulations, mutatis mutandis. If there shall be no Trustees, the officers of the Trust shall promptly call a special meeting of the unitholders for the election of successor Trustees. The phrase "meeting of the unitholders" wherever it appears in this Declaration of Trust shall mean and include both an annual meeting and any other meeting of unitholders.

8.3 Notice of Meeting of Unitholders

- (a) Notice of all meetings of the unitholders shall be mailed or delivered by the Trustees to each Trustee, unitholder, and to the Auditors of the Trust not less than 21 days nor more

than 60 days or within such other number of days as required by law or 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 *Canada Business Corporations Act* in connection with a meeting of shareholders. Notice of any meeting of the unitholders shall state the purposes of the meeting. Any adjourned meeting, other than a meeting adjourned for lack of a quorum under Section 8.6, may be held as adjourned without further notice. Notwithstanding the foregoing, a meeting of unitholders may be held at any time without notice if all the unitholders are present or represented thereat or those not so present or represented have waived notice. Any unitholder (or a duly appointed proxy of a unitholder) may waive any notice required to be given under the provisions of this Section 8.3, 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.

- (b) For certainty and notwithstanding any other provision of the Declaration of Trust, the Trust shall be permitted to utilize the “notice and access” delivery procedures set out in National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*, as replaced or amended from time to time, for the purposes of providing notice of a meeting of unitholders and matters related thereto.

8.4 Nominations of Trustees

- (a) Only persons who are nominated in accordance with the following procedures shall be eligible for election as Trustees of the Trust. Nominations of persons for election to the Board of Trustees may be made at any annual meeting of unitholders, or at any special meeting of unitholders if one of the purposes for which the special meeting was called was the election of Trustees:
 - (i) by or at the direction of the Board of Trustees, including pursuant to a notice of meeting;
 - (ii) by or at the direction or request of one or more unitholders pursuant to a requisition of the unitholders made in accordance with this Article VIII; or
 - (iii) by any person (a “**Nominating Unitholder**”): (A) who, at the close of business on the date of the giving of the notice provided for below in this Section 8.4 and on the record date for notice of such meeting, is entered in the Register as a holder of one or more Units carrying the right to vote at such meeting or who beneficially owns Units that are entitled to be voted at such meeting; and (B) who complies with the notice procedures set forth below in this Section 8.4.
- (b) In addition to any other applicable requirements, for a nomination to be made by a Nominating Unitholder, the Nominating Unitholder must have given timely notice thereof to the Trustees in the manner prescribed by this Declaration of Trust. Furthermore, if such notice is made on a day which is a not a Business Day or later than 5:00 p.m. (Toronto Time) on a day which is a Business Day, then such notice shall be deemed to have been made on the subsequent day that is a Business Day.
- (c) To be timely, a Nominating Unitholder's notice to the Trustees must be made:

- (i) in the case of an annual meeting of unitholders, not less than 30 days prior to the date of the annual meeting of unitholders; provided, however, that in the event that the annual meeting of unitholders is to be held on a date that is less than 50 days after the date (the "**Notice Date**") that is the earlier of the date that a notice of meeting is filed for such meeting or the date on which the first public announcement of the date of the annual meeting was made, notice by the Nominating Unitholder may be made not later than the close of business on the 10th day following the Notice Date; and
 - (ii) in the case of a special meeting (which is not also an annual meeting) of unitholders called for the purpose of electing Trustees (whether or not called for other purposes), not later than the close of business on the 15th day following the day that is the earlier of the date that a notice of meeting is filed for such meeting or the date on which the first public announcement of the date of the special meeting of unitholders was made.
- (d) To be in proper written form, a Nominating Unitholder's notice to the Trustees must set forth:
 - (i) as to each person whom the Nominating Unitholder proposes to nominate for election as a Trustee: (A) the name, age, business address and residential address of the person; (B) the principal occupation or employment of the person; (C) the class or series and number of Units in the capital of the Trust which are controlled or which are owned beneficially or of record by the person as of the record date for the meeting of unitholders (if such date shall then have been made publicly available and shall have occurred) and as of the date of such notice; and (D) any other information relating to the person that would be required to be disclosed in a dissident's proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable Securities Laws; and
 - (ii) as to the Nominating Unitholder giving the notice, any proxy, contract, arrangement, understanding or relationship pursuant to which such Nominating Unitholder has a right to vote any Units and any other information relating to such Nominating Unitholder that would be required to be made in a dissident's proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable Securities Laws.
- (e) No person shall be eligible for election as a Trustee of the Trust unless nominated in accordance with the provisions of this Section 8.4; provided, however, that nothing in this Section 8.4 shall be deemed to preclude discussion by a unitholder (as distinct from the nomination of Trustees) at a meeting of unitholders of any matter in respect of which it would have been entitled to submit to a vote pursuant to the terms and conditions contained in this Declaration of Trust. The chairperson of the meeting shall have the power and duty to determine whether a nomination was made in accordance with the procedures set forth in the foregoing provisions and, if any proposed nomination is not in compliance with such foregoing provisions, to declare that such defective nomination shall be disregarded.
- (f) For purposes of this Section 8.4, "public announcement" shall mean disclosure in a press release reported by a national news service in Canada, or in a document publicly filed by the Trust under its profile on the System of Electronic Document Analysis and Retrieval+ at www.sedarplus.ca.
- (g) Notwithstanding the foregoing, the Board of Trustees may, in its sole discretion, waive any requirement in this Section 8.4.

8.5 Chairperson

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

8.6 Quorum

A quorum for any meeting of the unitholders shall be two (2) unitholders present in person or represented by proxy, such persons holding or representing by proxy in aggregate not less than 25% of the total number of outstanding Units. 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 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 shall stand adjourned to such day being not less than 14 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 adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

8.7 Voting

Holders of Units may attend and vote at all meetings of the unitholders either in person or by proxy. Each Trust Unit shall entitle the holder of record thereof to one (1) 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 Trust Units that may be obtained upon the exchange of the Exchangeable Security to which such Special Voting Unit is attached.

Any action to be taken by the unitholders shall, except as otherwise required by this Declaration of Trust or by law, be authorized when approved by a majority of the votes cast at a meeting of the unitholders. The 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, on which every person present and entitled to vote shall be entitled to one vote.

At any such meeting, unless a poll is demanded, a declaration by the chairperson that a resolution has been carried unanimously or carried 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.

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 (1) 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.

8.8 Matters on which Unitholders Shall Vote

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

- (a) except as provided in Sections 3.4, 3.6, 3.7, 3.8, 3.11 or 3.12, the appointment, election or removal of Trustees;

- (b) except as provided in Section 17.6, the appointment or removal of Auditors;
- (c) any amendment to the Declaration of Trust (except as provided in Sections 6.3, 13.1 or 13.4);
- (d) the sale or transfer of the assets of the Trust and its subsidiaries as an entirety or substantially as an entirety (other than as a part of an internal reorganization of the assets of the Trust and its subsidiaries as approved by the Trustees);
- (e) the termination of the Trust; or
- (f) the transaction of any other business as the Trustees may determine or as may be properly brought before the meeting.

Nothing in this Section 8.8, however, shall prevent the Trustees from submitting to a vote of unitholders any matter which they deem appropriate. Except with respect to the matters specified in Sections 8.8, 13.2, 13.3, 13.4 and 15.2 or matters submitted to a vote of the unitholders by the Trustees, no vote of the unitholders shall in any way bind the Trustees.

8.9 Record Dates

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

8.10 Proxies

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

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

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

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

8.11 Personal Representatives

If a unitholder is deceased, his personal representative, upon filing with the secretary of the meeting such proof of his appointment as the secretary considers sufficient, shall be entitled to exercise the same voting rights at any meeting of unitholders as the unitholder would have been entitled to exercise if he were living and for the purpose of the meeting shall be considered to be a unitholder. Subject to the provisions of the will of a deceased unitholder, if there is more than one personal representative, the provisions of Section 7.21 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.

8.12 Attendance by Others

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

8.13 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.

8.14 Binding Effect of Resolutions

Every resolution passed at a meeting in accordance with the provisions of this Article VIII shall be binding upon all unitholders, whether present at or absent from the meeting. Subject to Section 8.8, no action taken by unitholders at any meeting of unitholders shall in any way bind the Trust or the Trustees without approval of the Trustees.

8.15 Resolution in Lieu of Meeting

A resolution signed in writing by all of the unitholders entitled to vote on that resolution at a meeting of unitholders is as valid as if it had been passed at a meeting of unitholders.

8.16 Actions by Unitholders

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

8.17 Meaning of "Special Resolution"

- (a) The expression "Special Resolution" when used in this Declaration of Trust means, subject to this Article VIII, a resolution proposed to be passed as a special resolution at a meeting of unitholders (including an adjourned meeting) duly convened for that purpose and held

in accordance with the provisions of this Section 8.17 at which at least two unitholders are present in person or represented by proxy and holding or representing by proxy in aggregate not less than 25% of the total number of outstanding Units and passed by the affirmative votes of the holders of more than 66⅔% of the Units represented at the meeting and voted on a poll upon such resolution.

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

8.18 Meaning of "Outstanding"

Every Trust Unit, Special Voting Unit and Special Unit issued, certified and delivered hereunder shall be deemed to be outstanding until it shall be cancelled or delivered to the Trustees or Transfer Agent for cancellation provided that:

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

ARTICLE IX MEETINGS OF THE TRUSTEES

9.1 Trustees May Act Without Meeting

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

9.2 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 telephone shall constitute a waiver of notice of such meeting except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened. Each committee of Trustees appointed by the Trustees may adopt its own rules or procedures for the calling,

conduct, adjournment and regulation of the meetings of such committees as it sees fit and may amend or repeal such rules or procedures from time to time; provided, however, that the Trustees' Regulations and any such rules or procedures shall not be inconsistent with this Declaration of Trust.

9.3 Place of Meeting

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

9.4 Chair

The chairperson 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.

9.5 Quorum

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

9.6 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.

9.7 Voting at Meetings

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

9.8 Meeting by Telephone or Other Communication Facilities

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

ARTICLE X
COMMITTEES OF TRUSTEES

10.1 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. The Trustees shall have the power to appoint, employ or contract with any person for any matter relating to the Trust or its assets or affairs. For greater certainty, the Trustees may delegate to any person (including, without limitation any one or more officers of the Trust) the power to execute any document or enter into any agreement on behalf of the Trust or exercise any discretion or make any amendment in relation thereto. The Trustees may grant or delegate such authority to an advisor or a committee of Trustees as the Trustees may in their sole discretion deem necessary or desirable without regard to whether such authority is normally granted or delegated by trustees. The Trustees shall have the power to determine the term and compensation of an advisor or any other person whom they may employ or with whom they may contract. The Trustees shall have the power to grant powers of attorney as required in connection with any financing or security relating thereto.

10.2 Investment Committee

The Trustees may appoint an Investment Committee comprised of at least two Trustees. The duties of the Investment Committee may be changed by the Trustees from time to time and shall be subject to such authority as may be delegated from time to time by the Trustees to officers of the Trust without requiring the approval or review by the Trustees or the Investment Committee. The duties of the Investment Committee, if appointed, will be, unless delegated by the Trustees to officers of the Trust, to: (i) review all investment and financing proposals for the Trust and its Subsidiaries; (ii) where the approval of the Trustees is required, recommend to the Trustees approval or rejection of proposed transactions by the Trust (including acquisitions and dispositions of investments by the Trust); (iii) where the approval of the Investment Committee is required, approve or reject proposed transactions by the Trust (including acquisitions and dispositions of investments by the Trust or its Subsidiaries); and (iv) approve all proposed borrowings and the assumption or granting of any mortgage or other security interest in real property by the Trust or its Subsidiaries. Questions arising at any meeting of the Investment Committee shall be decided by a majority of the votes cast. Decisions may be taken by written consent signed by all the members of the Investment Committee upon not less than 48 hours' notice. Where for any reason a member of the Investment Committee is disqualified from voting on or participating in a decision, any other disinterested Independent Trustee not already a member of the Investment Committee may be designated by the Trustees to act as an alternate. Notwithstanding the appointment of the Investment Committee and the granting of any authority thereto, the Trustees may consider and approve or disapprove any matter which the Investment Committee has the authority to consider or approve.

10.3 Audit Committee

The Trustees shall appoint an Audit Committee to consist of not less than three Trustees, all of whom shall be Independent Trustees. 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. The Audit Committee shall be responsible for monitoring the management of the principal risks that could impact the financial reporting of the Trust, monitoring the integrity of the Trust's financial reporting process and system of internal controls regarding financial reporting and accounting compliance, monitoring the independence and performance of the Trust's external auditors and providing an avenue of communication among the external auditors, management, and the Trustees. The auditors of the Trust are entitled to receive notice of every meeting of the Audit Committee and, at the expense of the Trust, to attend and be heard thereat and, if so requested by a member of the Audit Committee, shall attend any meeting of the Audit Committee held during the term of office of the auditors. The auditors of the Trust or a member of the Audit Committee may call a meeting of the Audit Committee on not less than 48 hours' notice, provided that such notice may be waived in writing by all members of the Audit Committee either before or after such meeting.

10.4 Governance & ESG Committee

The Trustees shall appoint a Governance & ESG Committee, to consist of at least three Trustees, a majority of whom shall be Independent Trustees. The Governance & ESG Committee shall be responsible for developing and monitoring the Trust's approach to matters of governance. Any member of the Governance & ESG Committee may call a meeting of the Governance, Nomination and Succession Committee on any Business Day on not less than 48 hours' notice, provided that such notice may be may be waived in writing by all members of the Governance & ESG Committee either before or after such meeting.

10.5 Compensation & HR Committee

The Trustees shall appoint a Compensation & HR Committee, to consist of at least three Trustees, a majority of whom shall be Independent Trustees. The Compensation & HR Committee shall be responsible for developing and monitoring the Trust's approach to matters of compensation of Trustees, officers and employees of the Trust. Any member of the Compensation & HR Committee may call a meeting of the Compensation & HR Committee on any Business Day on not less than 48 hours' notice, provided that such notice may be may be waived in writing by all members of the Compensation & HR Committee either before or after such meeting.

10.6 Additional Committees

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

10.7 Procedure

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

ARTICLE XI **DISTRIBUTIONS**

11.1 Distributions

The Trust shall have full discretion respecting the timing and the amount of any distributions, including out of the capital of the Trust, provided that any distribution shall be made on a Distribution Date on Trust Units held by Trust Unitholders as of the close of business on the record date for such distribution as is fixed by the Trustees in accordance with Section 8.9 (the "**Distribution Record Date**"). The Trust may pay distributions *in specie*, in any manner including securities of a Subsidiary of the Trust. The Trustees may adopt a distribution policy pursuant to which distributions will be made by the Trust to Trust Unitholders, and the Trustees may amend or revoke such distribution policy from time to time. In calculating the Trust's income for tax purposes for any taxation year, the present intention of the Trust is to deduct such amounts that the Trustees paid or declared payable to Trust Unitholders and in the taxation year as is necessary to reduce or eliminate the Trust's liability for income tax under Part I of the Tax Act in the taxation year to the maximum extent possible. 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 11.1 to be effected.

11.2 Allocation

Income of the Trust for a Taxation Year and net realized capital gains of the Trust for the purposes of the Tax Act will be allocated to the Trust Unitholders in the same proportions as the distributions received by Trust Unitholders. The income of the Trust for any taxation year of the Trust will be the income for such year computed in accordance with the provisions of the Tax Act, other than paragraph 82(1)(b) and subsection 104(6) thereof, regarding the calculation of income for the purposes of determining the "taxable income" of the Trust subject to such adjustment as the Trustees may in their discretion determine; provided, however, that capital gains and capital losses will be excluded from the computation of income of the Trust and, if an amount has been designated by the Trust under subsection 104(19) of the Tax Act, such designation shall be disregarded for this purpose. The Trustees shall in each year make such other designations for tax purposes in respect of distributions that the Trustees consider to be reasonable in all of the circumstances.

11.3 Payment of Distributions

Distributions shall be made by cheque payable to or to the order of the Trust 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 Trust Unitholder or to his agent duly authorized in writing or upon the mailing of a cheque by prepaid first-class mail addressed to the Trust Unitholder at his 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, and shall be entitled to, deduct or withhold from distributions payable to any Trust Unitholder all amounts required by law to be withheld from such distribution and the Trust shall remit such taxes to the appropriate governmental authority within the times prescribed by law. Trust Unitholders who are Non-Residents will be required to pay all withholding taxes payable in respect of any distributions of income by the Trust, whether such distributions are in the form of cash or additional Units.

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. Immediately after a pro rata distribution of such Units to all Trust Unitholders and in satisfaction of any non-cash distribution, the number of outstanding Units will be consolidated so that each Trust Unitholder will hold after the consolidation the same number of Units as the Trust 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 will be the market price (determined in accordance with Section 7.14(c)) of the Units determined as of 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 Trust Unitholder's share of the distribution and such amount is not paid by the Trust Unitholder to the Trust, the consolidation will result in such Trust Unitholder holding that number of Units equal to (i) the number of Units held by such Trust Unitholder prior to the distribution plus the number of Units received by such Trust 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 Trust Unitholder. Such Trust Unitholder will be required to surrender the Unit Certificates, if any, representing such Trust Unitholder's original Units, in exchange for a Unit Certificate representing such Trust Unitholders' post-consolidation Units.

11.4 Withholding Taxes

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

11.5 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.

11.6 Designations

The Trustees shall make such elections, designations or other filings for tax purposes in respect of amounts paid or payable to Trust Unitholders for such amounts that the Trustees consider to be reasonable, including, without limitation, 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.

11.7 Definitions

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

ARTICLE XII **FEES AND EXPENSES**

12.1 Expenses

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

- (a) interest and other costs of borrowed money;
- (b) fees and expenses of lawyers, accountants, auditors, appraisers and other agents or consultants employed by or on behalf of the Trust or the Trustees;
- (c) fees and expenses of the Trustees;
- (d) fees and expenses connected with the acquisition, disposition and ownership of real property interests or mortgage loans or other property;
- (e) insurance as considered necessary by the Trustees;
- (f) expenses in connection with payments of distributions of Units of the Trust;
- (g) expenses in connection with communications to Unitholders and the other bookkeeping and clerical work necessary in maintaining relations with unitholders;
- (h) expenses of changing or terminating the Trust;

- (i) fees and charges of transfer agents, registrars, indenture trustees and other trustees and custodians;
- (j) all fees, expenses, taxes and other costs incurred in connection with the issuance, distribution, transfer and qualification for distribution to the public of Units and other required governmental filings; and
- (k) all costs and expenses in connection with the incorporation or establishment, organization and maintenance of corporations and other entities formed to hold real property or other property of the Trust,

provided that that the Trust will not incur any expense that would cause the Trust to fail or cease to qualify as a "mutual fund trust" or "real estate investment trust" under the Tax Act.

12.2 Payment of Real Property and Brokerage Commissions

The Trust may pay real property and brokerage commissions at commercial rates in respect of the acquisition and disposition of any investment acquired or disposed of by it.

12.3 Asset Management, Leasing and Financing Fees

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

ARTICLE XIII AMENDMENTS TO THE DECLARATION OF TRUST

13.1 Amendments by the Trustees

Notwithstanding Section 13.3, the Trustees may, without the approval of or notice to the Unitholders, make certain amendments to the Declaration of Trust, including amendments:

- (a) aimed at ensuring continuing compliance with applicable laws, regulations, requirements or policies of any governmental authority having jurisdiction over: (i) the Trustees or the Trust; (ii) the status of the Trust as a "unit trust", a "mutual fund trust" and a "real estate investment trust" under the Tax Act; or (iii) the distribution of Units;
- (b) which, in the opinion of the Trustees, provide additional protection for the unitholders;
- (c) to remove any conflicts or inconsistencies in the Declaration of Trust or to make minor corrections which are, in the opinion of the Trustees, necessary or desirable and not prejudicial to the unitholders;
- (d) which, in the opinion of the Trustees, are necessary or desirable to remove conflicts or inconsistencies between the disclosure in the Information Circular and the Declaration of Trust;
- (e) of a minor or clerical nature or to correct typographical mistakes, ambiguities or manifest omissions or errors, which amendments, in the opinion of the Trustees, are necessary or desirable and not prejudicial to the unitholders;
- (f) which, in the opinion of the Trustees, are necessary or desirable: (i) to ensure continuing compliance with IFRS; or (ii) to ensure the Units qualify as equity for purposes of IFRS;

- (g) which, in the opinion of the Trustees, are necessary or desirable to enable the Trust to implement a Trust Unit option or purchase plan, a distribution reinvestment plan or issue Units for which the purchase price is payable in installments;
- (h) which, in the opinion of the Trustees, are necessary or desirable for the Trust to qualify for a particular status under, or as a result of changes in, taxation or other laws, or the interpretation of such laws, including to qualify for the definition of "mutual fund trust" and "real estate investment trust" in the Tax Act or to otherwise prevent the Trust or any of its Subsidiaries from becoming subject to tax under the SIFT Legislation;
- (i) to create one or more additional classes of units solely to provide voting rights to holders of shares, units or other securities that are Exchangeable Units entitling the holder thereof to a number of votes not exceeding the number of Trust Units into which the exchangeable shares, units or other securities are exchangeable or convertible but that do not otherwise entitle the holder thereof to any rights with respect to the Trust's property or income other than a return of capital; and
- (j) for any purpose (except one in respect of which a Unitholder vote is specifically otherwise required) which, in the opinion of the Trustees, is not prejudicial to Unitholders and is necessary or desirable;

but notwithstanding the foregoing, no such amendment shall modify the right to vote attached to any Unit or reduce the equal undivided interest in the property of the Trust or the entitlement to distributions from the Trust provided hereunder (including those provided for in Article X above and Article XIV) represented by any Unit without the consent of the Unitholders provided in accordance with Sections 13.2 and 13.3, as applicable, or cause the Trust to fail or cease to qualify as a "mutual fund trust", "real estate investment trust", or "unit trust" under the Tax Act, or cause the Trust or a Subsidiary of the Trust to be subject to tax under paragraph 122(1)(b), subsection 197(2) or Part XII.2 of the Tax Act.

13.2 Amendments by Unitholders

Subject to Sections 6.3, 13.3 and 13.4, this Declaration of Trust may be amended by the vote of a majority of the votes cast at a meeting of Unitholders called for that purpose.

13.3 Approval by Special Resolution

Subject to Section 13.1, none of the following shall occur unless the same has been duly approved by Special Resolution:

- (a) any amendment to this Section 13.3;
- (b) an exchange, reclassification or cancellation of all or part of the Units;
- (c) the addition, change or removal of the rights, privileges, restrictions or conditions attached to the Units;
- (d) any constraint of the issue, transfer or ownership of the Units or the change or removal of such constraint;
- (e) the sale or transfer of the assets of the Trust as an entirety or substantially as an entirety (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders);
- (f) the termination of the Trust (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders);

- (g) the combination, amalgamation or arrangement of any of the Trust or its subsidiaries with any other entity (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders); and
- (h) except as provided in Section 6.3, the amendment of the investment guidelines and operating policies of the Trust.

13.4 Amendment by the Sole Unitholder

Notwithstanding Sections 13.1, 13.2 and 13.3, so long as the Initial Unitholder is the sole Unitholder of the Trust, the Initial Unitholder may make any amendment to this Declaration of Trust including this Section 13.4.

13.5 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 or any of the Subsidiaries (including, without limitation, forming additional trusts or limited partnerships to be subsidiaries of the Trust), any such resolution or reorganization shall not require the prior approval of Unitholders provided that such reorganization is not prejudicial to Unitholders.

13.6 No Termination

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

13.7 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.

13.8 Restriction on Amendments Affecting Certain Rights of Trustees

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

ARTICLE XIV SUPPLEMENTAL INDENTURES

14.1 Provision for Supplemental Indentures for Certain Purposes

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

- (a) modifying or amending any provisions of this Declaration of Trust in the circumstances set forth in Section 13.1 where the Trustees may do so without the consent, approval or ratification of the Unitholders or any other person; and

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

ARTICLE XV

TERMINATION OF THE TRUST

15.1 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 property of the Trust, and the Trustees shall have all the powers and discretions, expressed and implied, conferred upon them by law or by this Declaration of Trust.

15.2 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.

15.3 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 proportionately to the Trust Unitholders. Such distribution may be made in cash or in kind or partly in each, all as the Trustees in their sole discretion may determine.

15.4 Procedure Upon Termination

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

15.5 Powers of the Trustees Upon Termination

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

15.6 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 15.4, 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 property of the Trust, and the Trustees may either take appropriate steps, or appoint an agent to take appropriate steps, to contact such unitholders (deducting all expenses thereby incurred from the amounts to which such unitholders are entitled as aforesaid) or, in the discretion of the Trustees, may pay such amounts into court.

15.7 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's property after the date referred to in Section 15.4 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 15.3.

ARTICLE XVI

LIABILITIES OF TRUSTEES AND OTHERS

16.1 Liability and Indemnification of the Trustees

The Trustees shall at all times, including, for the purposes of this Article XVI, the time after they have ceased to be a Trustee, be indemnified and saved harmless out of the property of the Trust from and against all liabilities, damages, losses, debts and claims whatsoever, including costs, charges and expenses in connection therewith, sustained, incurred, brought, commenced or prosecuted against them for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of their duties as Trustees and also from and against all other liabilities, damages, losses, debts, claims, costs, charges, and expenses (including, without limitation, legal fees and disbursements on a solicitor and client basis) which they sustain or incur in or about or in relation to the affairs of the Trust (whether accrued, actual, contingent or otherwise), claims, costs, charges or expenses arising out of or in connection with the presence, release, discharge or disposal of any hazardous substance or any adverse environmental conditions at, on, under or near any real property or any investigation, remediation or clean up action required to be undertaken in connection with any real property. Further, the Trustees shall not be liable to the Trust or to any Unitholder or Annuitant for any loss or damages relating to any matter regarding the Trust, including, without limitation, any loss or diminution in the value of the Trust or its assets. The foregoing provisions of this Section 16.1 in favour of any Trustee do not apply unless:

- (a) the Trustee acted honestly and in good faith with a view to the best interests of the Trust and the Unitholders; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the Trustee had reasonable grounds for believing his conduct was lawful.

16.2 Indemnification of Trustees

Each Trustee, each former Trustee, each officer of the Trust and each former officer of the Trust shall be entitled to be and shall be indemnified and reimbursed out of the Trust's property in respect of any and all taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon the Trustee or former Trustee or officer or former officer in consequence of its performance of its duties hereunder and in respect of any and all costs, charges and expenses, including amounts paid to settle an action or satisfy a judgment, reasonably incurred in respect of any civil, criminal or administrative action or proceeding to which the Trustee, former Trustee, officer or former officer is made a party by reason of being or having been a Trustee or officer of the Trust or, at the request of the Trust, a trustee or officer or any subsidiary or affiliate thereof, provided that a Trustee, former Trustee, officer or former officer shall not be indemnified out of the Trust's property in respect of unpaid taxes or other governmental charges or in respect of such costs, charges and expenses that arise out of or as a result or in the course of a breach of the standard of care, diligence and skill set out in Section 4.5. A Trustee, former Trustee, officer or former officer shall not be entitled to satisfy any right of indemnity or reimbursement granted herein, or otherwise existing under law, except out of the Trust's 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.

16.3 Contractual Obligations of the Trust

The omission of the statement described in Subsection 6.2(b)(ii) from any document or instrument shall not render the Trustees or the Unitholders liable to any person, nor shall the Trustees or the Unitholders be liable for such omission. If the Trustees or any Unitholder shall be held liable to any person by reason of the omission of such statement from any such agreement, undertaking or obligation, such Trustee or Unitholder shall be entitled to indemnity and reimbursement out of the Trust's property to the full extent of such liability.

16.4 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 property of the Trust shall be lodged or deposited, or for any loss occasioned by error in judgment or oversight on the part of the Trustees, or for any other loss, damage or misfortune which may happen in the execution by the Trustees of their duties hereunder, except to the extent the Trustees have not acted in accordance with Subsections 16.1(a) and 16.1(b).

16.5 Reliance Upon Advice

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

16.6 Liability of Unitholders and Others

No Unitholder or Annuitant or any officer, trustee, employee or agent of the Trust shall be held to have any personal liability as such, and no resort shall be had to his or her private property (including, without limitation, any property consisting of or arising from a distribution of any kind or nature by the Trust) for satisfaction of any obligation or claim arising out of or in connection with any contract or obligation of the Trust or of the Trustees or any obligation which a Unitholder or Annuitant would otherwise have to indemnify a Trustee for any personal liability incurred by the Trustee as such, but rather the assets of the Trust only are intended to be liable and subject to levy or execution for such satisfaction. Any written instrument creating an obligation which is or includes the granting by the Trust of a lease, sublease or mortgage or which is, in the judgment of the Trustees, a material obligation, shall contain a provision to the effect that the obligation being created is not personally binding upon, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, the private property (including, without limitation, any property consisting of or arising from a distribution of any kind or nature by the Trust) of any of the Unitholders or Annuitant or officers, trustees, employees and agents of the Trust, but the property of the Trust 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 16.1, 16.4 and 16.5. Nothing in this Declaration will preclude the Trustees from exercising any rights granted to them under the Tax Act or any other applicable taxation legislation to withhold from amounts payable to Unitholders or otherwise recover from Unitholders any taxes that the Trustees have paid on behalf of Unitholders.

ARTICLE XVII
GENERAL

17.1 Execution of Instruments

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

17.2 Manner of Giving Notice

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

17.3 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.

17.4 Joint Holders

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

17.5 Service of Notice

Any notice or document sent by post to or left at the address of a Unitholder pursuant to this Article XVII shall, notwithstanding the death or bankruptcy of such Unitholder, and whether or not the Trustees have

notice of such death or bankruptcy, be deemed to have been fully served and such service shall be deemed sufficient service on all persons having an interest in the Units concerned.

17.6 Trust Auditors

The Auditors shall be appointed at each annual meeting save that, until the first such annual meeting, such 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 until the next annual meeting of Unitholders. 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.

17.7 Fiscal Year

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

17.8 Reports to Unitholders

The Trust will furnish to Unitholders such financial statements (including quarterly and annual financial statements) and other reports as are from time to time required by this Declaration of Trust and by applicable law. Prior to a meeting of Unitholders, the Trustees will provide the Unitholders (along with notice of such meeting) information required by applicable tax laws and Securities Laws. For greater certainty and in accordance with Section 17.10, any financial statements and other reports required to be furnished pursuant to this Section 17.8 may be furnished in electronic form to the extent and in the manner permitted by applicable Securities Laws.

17.9 Trust Property to be Kept Separate

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

17.10 Electronic Documents

Any requirement under this Declaration of Trust, the *Securities Act* (Ontario) or any other applicable law that a notice, statement, document or other information be created, provided or delivered is satisfied by the creation, provision or delivery of an electronic document to the extent permitted by law. For certainty, notwithstanding any other provision of this Declaration of Trust, the Trust shall be permitted to utilize the "notice and access" delivery procedures set out in National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*.

17.11 Trustees May hold Units

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

17.12 Trust Records

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

17.13 Right to Inspect Documents

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

17.14 Taxation Information

On or before the 90th day of each calendar year, or such earlier day as is required by applicable legislation or regulation, the Trust will provide to Trust Unitholders who received distributions from the Trust in the prior calendar year, such information required by Canadian law to be submitted to Trust Unitholders for income tax purposes to enable Trust Unitholders to complete their tax returns in respect of such distributions. In particular, each Trust Unitholder shall be informed each year of the composition of the amounts payable by the Trust to such Trust Unitholder in terms of net income, taxable dividends, net taxable gains, foreign source income and return of capital, and will be informed of the portion of such net income that has been designated as taxable dividends on shares of taxable Canadian corporations and taxable capital gains and of the amount of any foreign taxes paid by the Trust in respect of which the Trust Unitholder may claim a credit for tax purposes to the extent permitted by the Tax Act, where those items are applicable.

17.15 Consolidations

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

17.16 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.

17.17 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.

17.18 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.

17.19 Governing Law

This Declaration of Trust and the Unit Certificates shall be interpreted and governed by and take effect exclusively in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract. Any and all disputes arising under this Declaration

of Trust, whether as to interpretation, performance or otherwise, shall be subject to the exclusive jurisdiction of the courts of the Province of Ontario and each of the Trustees hereby irrevocably attorns, and each Unitholder shall be deemed to hereby irrevocably attorn, to the exclusive jurisdiction of the courts of such province.

17.20 Transition

Notwithstanding any other provision hereof, if otherwise applicable, the approval of a majority of the independent Trustees shall not be required, and the provisions of Section 4.10 shall not be operative or effective with respect to the entering into of, any agreement, transaction or arrangement or proposed agreement, transaction or arrangement disclosed in the Information Circular.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

Philip D. Fraser, Trustee

Aldéa Landry, Trustee

James C. Lawley, Trustee

Karine MacIndoe, Trustee

Laurie MacKeigan, Trustee

Douglas McGregor, Trustee

Shant Poladian, Trustee

Andrée Savoie, Trustee

Robert G. Richardson, Trustee

Manfred J. Walt, Trustee

KILLAM PROPERTIES INC., the Initial Unitholder

Per: _____

Name:

Title:

SCHEDULE A

KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST TRUSTEES' REGULATIONS

INTERPRETATION

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

MEETINGS OF TRUSTEES

2. **Place and Time of Meeting.** All meetings of the Trustees called by the giving of notice shall be held at a place in Canada and, unless consented to in writing by a majority of the Trustees, on a business day which place and time shall be specified in the notice.
3. **Notice.** The notice of any meeting need not specify the purpose of or the business to be transacted at the meeting.
4. **Adjournment.** Any meeting of Trustees may be adjourned from time to time by the chairperson of the meeting, with the consent of the meeting, to a fixed time and place. Notice of any adjourned meeting of Trustees is not required to be given if the time and place of the adjourned meeting is announced at the original meeting, but notice of the adjourned meeting shall be given to the Trustees not present at such original meeting by delivering (not mailing) the same not less than one day (exclusive of the day on which the notice is delivered but inclusive of the day for which notice is given) before the adjourned meeting. Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat. The Trustees who formed a quorum at the original meeting are not required to form the quorum at the adjourned meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment. Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.
5. **Minutes of Meetings.** The chairperson shall appoint a secretary to act as secretary of each meeting of the Trustees and of the Unitholders. Written records and minutes of all meetings of Trustees shall be maintained by the secretary of each meeting and shall be placed in the minute book of the Trust. Any written records and minutes of meetings of any committee of Trustees shall be maintained by the secretary of such meeting may but need not be placed in the minute book of the Trust. There shall be inserted or entered into the records and minutes of the meetings of Trustees all written disclosures or requests made to have entered into the minutes of the meeting, of the nature and extent of a person's interest in a material agreement or transaction or proposed material agreement or transaction with the Trust made pursuant to Section 4.10 of the Declaration of Trust.

FOR THE PROTECTION OF TRUSTEES AND OFFICERS

6. **For the Protection of Trustees and Officers.** The provisions of the Declaration of Trust pertaining to the liability and indemnification of Trustees shall apply mutatis mutandis to the officers of the Trust or persons

who act or acted at the Trust's request as a director or officer of a body corporate of which the Trust is or was a shareholder or creditor, and his heirs and legal representatives.

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

OFFICERS

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

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

8. **Chairperson.** The Chair of Trustees shall be appointed from among the Trustees and shall be a non-executive appointment. When present the Chair of Trustees shall preside as chair at all meetings of the Trustees and at all meetings of the Unitholders, unless a Trustee who is not the Chair of Trustees is selected to do so by the Trustees in accordance with Section 8.5 of the Declaration of Trust.
9. **Powers and Duties.** Subject to the provisions of the Declaration of Trust, all officers of the Trust shall sign such contracts, documents or instruments in writing as require their respective signatures and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the Trustees.
10. **Duties May be Delegated.** Subject to the provisions of the Declaration of Trust, in case of the absence or inability to act of any officer of the Trust or for any other reason that the Trustees may deem sufficient, the Trustees may delegate all or any of the powers of such officer to any other officer or to any Trustee for the time being.
11. **Vacancies.** If the office of any officer of the Trust shall be or become vacant by reason of death, resignation, incapacity, removal or otherwise, the Trustees may appoint a person to fill such vacancy.

UNITHOLDERS' MEETINGS

12. **Place and Time of Meetings.** Each meeting of the Unitholders shall be held at a place in Canada on a Business Day which place and time shall be specified in the notice calling the meeting.
13. **Notice.** A printed, written or typewritten notice stating the day, hour and place of any meeting of the Unitholders as well as the purpose shall be given by serving such notice on each Unitholder entitled to vote at such meeting, on each Trustee and on the auditor of the Trust in the manner provided for in the Declaration of Trust and in these Trustees' Regulations. A meeting of the Unitholders may be held for any purpose on any day and at any time without notice if all of the Unitholders and all other persons entitled to attend such meeting are present in person or, where appropriate, represented by proxy at the meeting (except where a Unitholder or other person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called) or if all of the Unitholders and all other

persons entitled to attend such meeting who are not present in person or, where appropriate, represented by proxy thereat waive notice before or after the date of such meeting.

14. **Waiver of Notice.** A Unitholder and any other person entitled to attend a meeting of the Unitholders may in any manner waive notice of a meeting of the Unitholders and attendance of any such person at a meeting of the Unitholders shall constitute a waiver of notice of the meeting except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
15. **Votes.** Every question submitted to any meeting of the Unitholders, other than in respect of a Special Resolution, shall be decided in the first instance by a show of hands unless a person entitled to vote at the meeting has demanded a ballot.

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

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

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

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

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

A proxy may be in the following form:

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

DATED this day of _____

Signature of Unitholder

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

17. **Adjournment.** The chairperson of any meeting of the Unitholders may with the consent of the meeting adjourn the same from time to time to another Business Day at a fixed time and place and no notice of such adjournment need be given to the Unitholders with the exception of a meeting adjourned for a lack of quorum pursuant to Section 8.6 of the Declaration of Trust. Any business may be brought before or dealt with at any adjourned meeting for which no notice is required which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

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

18. **Quorum.** No business shall be transacted at any meeting of the Unitholders unless the requisite quorum is present at the time of the transaction of such business. If a quorum is not present at the time appointed for a meeting of the Unitholders or within 30 minutes thereafter, the persons present and entitled to vote may adjourn the meeting to another business day not less than 14 days later at a fixed time and place as selected by the Board, but may not transact any other business and the provisions of paragraph 17 with regard to notice shall apply to such adjournment.

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

CERTIFICATES

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

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

TRANSFER OF UNITS

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

VOTING SHARES AND SECURITIES IN BODIES CORPORATE

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

NOTICES

23. **Service.** If a notice or document is sent to a Unitholder by prepaid first-class mail in accordance with the provisions of the Declaration of Trust and the notice or document is returned on three consecutive occasions because the Unitholder cannot be found, it shall not be necessary to send any further notices or documents to the Unitholder until he informs the Trust in writing of his new address.
24. **Units Registered in More Than One Name.** All notices or other documents with respect to any Units registered in more than one name shall be given to whichever of such persons is named first in the records of the Trust and any notice or other document so given shall be sufficiently given to all of the holders of such Units.
25. **Deceased Unitholders.** Any notice or other document delivered or sent in a manner contemplated in the Declaration of Trust to the address of any Unitholder as the same appears in the records of the Trust shall, notwithstanding that such Unitholder be then deceased, and whether or not the Trust has notice of his death, be deemed to have been duly served in respect of the Units held by such Unitholder (whether held solely or with any other person or persons) until some other person be entered in his stead in the records of the Trust as the holder or one of the holders thereof and such service shall for all purposes be deemed a sufficient service of such notice or document on his heirs, executors or administrators and on all persons, if any, interested through him or with him in such Units.
26. **Signature to Notices.** The signature of any Trustee or officer of the Trust to any notice or document to be given by the Trust may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed.
27. **Computation of Time.** Where a given number of days' notice or notice extending over a period is required to be given under any provisions of the Declaration of Trust or these Trustees' Regulations, the day of service or posting of the notice or document shall not, unless it is otherwise provided, be counted in such number of days or other period, but the day of receipt of the notice or document shall, unless it is otherwise provided, be counted in such number of days or other period.
28. **Proof of Service.** With respect to every notice or other document sent by post it shall be sufficient to prove that the envelope or wrapper containing the notice or other document was properly addressed as provided in the Declaration of Trust and in these Trustees' Regulations and put into a post office or into a letter box. A certificate of an officer of the Trust in office at the time of the making of the certificate or of a transfer officer of any transfer agent or branch transfer agent of Units of the Trust as to facts in relation to the sending or delivery of any notice or other document to any Unitholder, Trustee, officer or auditor of the Trust or publication of any notice or other document shall be conclusive evidence thereof and shall be binding on every Unitholder, Trustee, officer or auditor of the Trust, as the case may be.

CHEQUES, DRAFTS AND NOTES

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

CUSTODY OF SECURITIES

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

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

EXECUTION OF INSTRUMENTS

31. **Execution of Instruments.** All contracts, documents or instruments in writing requiring the signature of the Trust may be signed by any officer or Trustee of the Trust and all contracts, documents and instruments in writing so signed shall be binding upon the Trust without any further authorization or formality. The Trustees shall have power from time to time to appoint any officer or officers, or any person or persons, on behalf of the Trust either to sign contracts, documents and instruments in writing generally or to sign specific contracts, documents or instruments in writing.

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

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

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

INCONSISTENCIES WITH DECLARATION OF TRUST

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

SCHEDULE "B"
TO THE PLAN OF ARRANGEMENT

KILLAM AMALCO MFC AMALGAMATION PROVISIONS

Capitalized terms used in this Schedule and not otherwise defined have the respective meanings ascribed to them in the Plan of Arrangement of which this Schedule forms a part.

1. Corporate name of amalgamated corporation:

Killam Properties Inc.

2. The province or territory in Canada where the registered office is to be situated:

Ontario

3. The classes and any maximum number of shares that the corporation is authorized to issue:

The classes and any maximum number of shares that the amalgamated corporation is authorized to issue are the same as the authorized capital of Killam MFC immediately prior to the amalgamation contemplated hereby and is comprised of an unlimited number of common shares, an unlimited number of Class A Preferred Shares and an unlimited number of Class B Preferred Shares.

4. Restrictions, if any, on share transfers:

None.

5. Minimum and Maximum number of directors:

A minimum of 1 and a maximum of 10.

6. Restrictions, if any, on the business the corporation may carry on:

The activities of the amalgamated corporation shall be limited to those activities described in subparagraphs (i), (ii) and (iii) of paragraph 131(8)(b) of the Income Tax Act (Canada).

7. Other provisions, if any.

- (a) the actual number of directors within the maximum and minimum set out in paragraph 5 may be determined from time to time by resolution of the directors. Any vacancy among the directors resulting from an increase in the number of directors as so determined may be filled by resolution of the directors. Initially, upon amalgamation, the amalgamated corporation shall have one director;
- (b) each common share of Killam MFC shall become a common share of Killam Amalco MFC with the same terms and conditions;
- (c) each Class A Share of Killam MFC shall become a Class A Share of Killam Amalco MFC with the same terms and conditions;
- (d) each Class B Share of Killam MFC shall become a Class B Share of Killam Amalco MFC with the same terms and conditions;
- (e) all of the property of KPI and Killam MFC (other than the KPI Shares and the Killam REIT IB Note and Killam MLP IB Note) immediately before the amalgamation shall become property of the amalgamated corporation by virtue of the amalgamation;

- (f) all of the liabilities of KPI and Killam MFC (except debts and liabilities between KPI and Killam MFC) immediately before the amalgamation shall become liabilities of the amalgamated corporation by virtue of the amalgamation;
- (g) the KPI Shares shall be cancelled;
- (h) the Killam REIT IB Note and Killam MLP IB Note shall each be cancelled; and
- (i) the amalgamation shall be effected as if approved and undertaken pursuant to and in accordance with Subsection 184(1) of the CBCA except to the extent modified by the Plan of Arrangement.

9 Name of the amalgamating corporations:

16430929 Canada Inc. and Killam Properties Inc.

APPENDIX F
BLACKLINE OF THE AMENDED AND RESTATED DECLARATION OF TRUST

The following is a blackline showing the proposed amendments to the Declaration of Trust to be adopted in the Amended and Restated Declaration of Trust.

KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST

AMENDED AND RESTATED DECLARATION OF TRUST

Dated as of ~~November 27~~¹⁰, ~~2015~~²⁰²⁴

TABLE OF CONTENTS

ARTICLE I THE TRUST AND DEFINITIONS	2
1.1 DEFINITIONS AND INTERPRETATION	2
1.2 TAX ACT	7
1.3 DAY NOT A BUSINESS DAY	7
1.4 TIME OF ESSENCE	7 <u>8</u>
ARTICLE II DECLARATION OF TRUST	7<u>8</u>
2.1 ESTABLISHMENT OF THE TRUST	7 <u>8</u>
2.2 INITIAL CONTRIBUTION	8
2.3 NAME	8
2.4 USE OF NAME	8
2.5 SITUS, MIND AND MANAGEMENT AND HEAD OFFICE	8
2.6 NATURE OF THE TRUST	8 <u>9</u>
2.7 RIGHTS OF UNITHOLDERS	9
2.8 ACCOUNTING PRINCIPLES	9
ARTICLE III TRUSTEES AND OFFICERS	9
3.1 NUMBER	9
3.2 TERM	9 <u>10</u>
3.3 QUALIFICATIONS OF TRUSTEES	9 <u>10</u>
3.4 RESIDENCY OF TRUSTEES	10
3.5 ELECTION OF TRUSTEES	10
3.6 INDEPENDENT TRUSTEES	10
3.7 RESIGNATIONS, REMOVAL, INCAPACITY AND DEATH OF TRUSTEES	10 <u>11</u>
3.8 APPOINTMENT OF TRUSTEES	11
3.9 CONSENT TO ACT	11 <u>12</u>
3.10 FAILURE TO ELECT MINIMUM NUMBER OF TRUSTEES	12
3.11 CEASING TO HOLD OFFICE	12
3.12 VACANCIES BY TRUSTEES	13
3.13 SUCCESSOR AND ADDITIONAL TRUSTEES	13
3.14 COMPENSATION AND OTHER REMUNERATION	13
3.15 VALIDITY OF ACTS	13 <u>14</u>
ARTICLE IV TRUSTEES' POWERS AND DUTIES	14
4.1 GENERAL POWERS	14
4.2 SPECIFIC POWERS AND AUTHORITIES	14
4.3 FURTHER POWERS OF THE TRUSTEES	17 <u>18</u>
4.4 BANKING	18
4.5 STANDARD OF CARE	18
4.6 FEES AND EXPENSES	18 <u>19</u>
4.7 RELIANCE UPON TRUSTEES	19
4.8 DETERMINATIONS OF TRUSTEES BINDING	19
4.9 LIMITATIONS ON LIABILITY OF TRUSTEES	19
4.10 CONFLICT OF INTEREST	20
4.11 CONDITIONS PRECEDENT	22
ARTICLE V OFFICERS OF THE TRUST	22
5.1 GENERAL	22
5.2 CHAIR OF TRUSTEES	22 <u>23</u>
5.3 TERM OF OFFICE	23
5.4 INDEPENDENT CONTRACTORS	23

ARTICLE VI INVESTMENT GUIDELINES AND OPERATING POLICIES	23
6.1 INVESTMENT GUIDELINES	23
6.2 OPERATING POLICIES	24
6.3 AMENDMENTS TO INVESTMENT GUIDELINES AND OPERATING POLICIES	25
6.4 TAX STATUS	25
6.5 APPLICATION OF INVESTMENT GUIDELINES AND OPERATING POLICIES	25
6.6 REGULATORY MATTERS	26
ARTICLE VII UNITS	26
7.1 UNITS	26
7.2 SPECIAL VOTING UNITS	26
7.3 TRUST UNITS <u>AND SPECIAL UNITS</u>	27
7.4 CONSIDERATION FOR UNITS	27 <u>28</u>
7.5 PRE-EMPTIVE RIGHTS	27 <u>28</u>
7.6 FRACTIONAL UNITS	27 <u>28</u>
7.7 ALLOTMENT AND ISSUE	27 <u>28</u>
7.8 RIGHTS, WARRANTS AND OPTIONS	27 <u>28</u>
7.9 COMMISSIONS AND DISCOUNTS	28 <u>29</u>
7.10 TRANSFERABILITY	28 <u>29</u>
7.11 TRANSFER OF UNITS	28 <u>29</u>
7.12 NON-RESIDENT OWNERSHIP CONSTRAINT	29
7.13 NON-CERTIFICATED INVENTORY SYSTEM	30 <u>31</u>
7.14 REDEMPTION OF TRUST UNITS	31 <u>32</u>
7.15 CERTIFICATE FEE	34 <u>35</u>
7.16 FORM OF UNIT CERTIFICATE	34 <u>35</u>
7.17 UNIT CERTIFICATES	35
7.18 CONTENTS OF UNIT CERTIFICATES	35 <u>36</u>
7.19 REGISTER OF UNITHOLDERS	36 <u>37</u>
7.20 SUCCESSORS IN INTEREST TO UNITHOLDERS	36 <u>37</u>
7.21 UNITS HELD JOINTLY OR IN FIDUCIARY CAPACITY	36 <u>37</u>
7.22 PERFORMANCE OF TRUSTS	37
7.23 LOST UNIT CERTIFICATES	37
7.24 DEATH OF UNITHOLDERS	37 <u>38</u>
7.25 UNCLAIMED PAYMENTS	37 <u>38</u>
7.26 REPURCHASE OF UNITS	38
7.27 TAKE-OVER BIDS	38
<u>7.28 RENOUNCING BENEFICIAL INTERESTS IN THE TRUST HELD BY SPECIAL UNITHOLDERS</u>	<u>41</u>
ARTICLE VIII MEETINGS OF UNITHOLDERS	41
8.1 ANNUAL MEETING	41
8.2 OTHER MEETINGS	41 <u>42</u>
8.3 NOTICE OF MEETING OF UNITHOLDERS	42
8.4 NOMINATIONS OF TRUSTEES	42 <u>43</u>
8.5 CHAIRPERSON	44 <u>45</u>
8.6 QUORUM	44 <u>45</u>
8.7 VOTING	44 <u>45</u>
8.8 MATTERS ON WHICH UNITHOLDERS SHALL VOTE	45
8.9 RECORD DATES	45 <u>46</u>
8.10 PROXIES	45 <u>46</u>
8.11 PERSONAL REPRESENTATIVES	46 <u>47</u>
8.12 ATTENDANCE BY OTHERS	46 <u>47</u>
8.13 CONDUCT OF MEETINGS	46 <u>47</u>
8.14 BINDING EFFECT OF RESOLUTIONS	46 <u>47</u>
8.15 RESOLUTION IN LIEU OF MEETING	47

8.16	ACTIONS BY UNITHOLDERS	47
8.17	MEANING OF "SPECIAL RESOLUTION"	47
8.18	MEANING OF "OUTSTANDING"	47 48
ARTICLE IX MEETINGS OF THE TRUSTEES		48
9.1	TRUSTEES MAY ACT WITHOUT MEETING	48
9.2	NOTICE OF MEETING	48
9.3	PLACE OF MEETING	48 49
9.4	CHAIR	48 49
9.5	QUORUM	48 49
9.6	ADJOURNED MEETING	48 49
9.7	VOTING AT MEETINGS	49
9.8	MEETING BY TELEPHONE <u>OR OTHER COMMUNICATION FACILITIES</u>	49
ARTICLE X COMMITTEES OF TRUSTEES		4950
10.1	GENERAL	49 50
10.2	INVESTMENT COMMITTEE	49 50
10.3	AUDIT COMMITTEE	50
10.4	GOVERNANCE, NOMINATION AND SUCCESSION <u>& ESG</u> COMMITTEE	50 51
10.5	COMPENSATION <u>& HR</u> COMMITTEE	50 51
10.6	ADDITIONAL COMMITTEES	50 51
10.7	PROCEDURE	50 51
ARTICLE XI DISTRIBUTIONS		51
11.1	DISTRIBUTIONS	51
11.2	ALLOCATION	51 52
11.3	PAYMENT OF DISTRIBUTIONS	51 52
11.4	WITHHOLDING TAXES	52 53
11.5	INCOME TAX MATTERS	52 53
11.6	DESIGNATIONS	52 53
11.7	DEFINITIONS	52 53
ARTICLE XII FEES AND EXPENSES		53
12.1	EXPENSES	53
12.2	PAYMENT OF REAL PROPERTY AND BROKERAGE COMMISSIONS	53 54
12.3	ASSET MANAGEMENT, LEASING AND FINANCING FEES	53 54
ARTICLE XIII AMENDMENTS TO THE DECLARATION OF TRUST		54
13.1	AMENDMENTS BY THE TRUSTEES	54
13.2	AMENDMENTS BY UNITHOLDERS	55
13.3	APPROVAL BY SPECIAL RESOLUTION	55
13.4	AMENDMENT BY THE SOLE UNITHOLDER	55 56
13.5	INTERNAL RESTRUCTURING	55 56
13.6	NO TERMINATION	56
13.7	TRUSTEES TO SIGN AMENDMENT	56
13.8	RESTRICTION ON AMENDMENTS AFFECTING CERTAIN RIGHTS OF TRUSTEES	56
ARTICLE XIV SUPPLEMENTAL INDENTURES		56
14.1	PROVISION FOR SUPPLEMENTAL INDENTURES FOR CERTAIN PURPOSES	56
ARTICLE XV TERMINATION OF THE TRUST		5657
15.1	DURATION OF THE TRUST	56 57
15.2	TERMINATION	56 57
15.3	EFFECT OF TERMINATION	56 57
15.4	PROCEDURE UPON TERMINATION	57

15.5	POWERS OF THE TRUSTEES UPON TERMINATION.....	57
15.6	FURTHER NOTICE TO UNITHOLDERS.....	57
15.7	RESPONSIBILITY OF THE TRUSTEES AFTER SALE AND CONVERSION.....	57

ARTICLE XVI LIABILITIES OF TRUSTEES AND OTHERS.....~~57~~58

16.1	LIABILITY AND INDEMNIFICATION OF THE TRUSTEES.....	57 <u>58</u>
16.2	INDEMNIFICATION OF TRUSTEES.....	58
16.3	CONTRACTUAL OBLIGATIONS OF THE TRUST.....	58
16.4	LIABILITY OF THE TRUSTEES.....	58 <u>59</u>
16.5	RELiance UPON ADVICE.....	58 <u>59</u>
16.6	LIABILITY OF UNITHOLDERS AND OTHERS.....	59

ARTICLE XVII GENERAL.....~~59~~60

17.1	EXECUTION OF INSTRUMENTS.....	59 <u>60</u>
17.2	MANNER OF GIVING NOTICE.....	59 <u>60</u>
17.3	FAILURE TO GIVE NOTICE.....	60
17.4	JOINT HOLDERS.....	60
17.5	SERVICE OF NOTICE.....	60
17.6	TRUST AUDITORS.....	60 <u>61</u>
17.7	FISCAL YEAR.....	60 <u>61</u>
17.8	REPORTS TO UNITHOLDERS.....	60 <u>61</u>
17.9	TRUST PROPERTY TO BE KEPT SEPARATE.....	61
17.10	ELECTRONIC DOCUMENTS.....	61
17.11	TRUSTEES MAY HOLD UNITS.....	61
17.12	TRUST RECORDS.....	61
17.13	RIGHT TO INSPECT DOCUMENTS.....	61 <u>62</u>
17.14	TAXATION INFORMATION.....	61 <u>62</u>
17.15	CONSOLIDATIONS.....	62
17.16	COUNTERPARTS.....	62
17.17	SEVERABILITY.....	62
17.18	HEADINGS FOR REFERENCE ONLY.....	62
17.19	GOVERNING LAW.....	62
17.20	TRANSITION.....	62 <u>63</u>

KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST

AMENDED AND RESTATED DECLARATION OF TRUST

THIS AMENDED AND RESTATED DECLARATION OF TRUST made in Halifax, Nova Scotia as of the 27th day of November, 2015 ~~2015~~ 2024.

BETWEEN:

~~Timothy R. Banks,~~ Philip D. Fraser, ~~Robert G. Kay~~ Aldéa Landry, James C. Lawley, ~~Arthur G. Lloyd,~~ Karine MacIndoe, Laurie MacKeigan, Douglas McGregor, Shant Poladian, Andrée Savoie, Robert G. Richardson, and Manfred J. Walt ~~and G. Wayne Watson~~, the trustees of the trust constituted by this declaration of trust, and each person who after the date hereof becomes a trustee of the Trust as herein provided (each person, 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 -

Killam Properties 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 "**Trust Unitholders**"),

OF THE SECOND PART.

WHEREAS the Trust was settled on October 28, 2015 with \$10.00 (the "**Initial Contribution**") by the Initial Unitholder, which the initial trustees (the "**Initial Trustees**") thereupon held in trust, in exchange for the Initial Trust Unit;

AND WHEREAS the Initial Unitholder and the Trustees desire that the Trust shall qualify as a "mutual fund trust" and as a "real estate investment trust" pursuant to subsections 132(6) and 122.1 of the Tax Act (as hereinafter defined), respectively;

AND WHEREAS the Trustees wish to amend and restate the Trust's declaration of trust dated October 28, 2015, as amended and restated on November 27, 2015, in the manner provided herein;

AND WHEREAS for greater certainty, this amendment and restatement of the Trust's declaration of trust shall not be deemed to constitute a termination of the Trust or a settlement of the Trust's declaration of trust or of the 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 Trust 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 I
THE TRUST AND DEFINITIONS

1.1 Definitions and Interpretation

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

- (a) **"Adjudicated Incompetence"** has the meaning given thereto in Section 3.3;
- (b) **"affiliate"** of a person means any person or company that would be deemed to be an affiliated entity of such person within the meaning of National Instrument 45-106 – *Prospectus and Registration Exemptions*, as replaced or amended from time to time;
- (c) **"Annuitant"** means the annuitant or beneficiary of a Plan or any other plan of which a Unitholder acts as trustee or carrier;
- (d) **"Arrangement"** means the ~~proposed~~ arrangement, under the provisions of Section 192 of the *Canada Business Corporations Act*, ~~whereby Killam was converted from a corporation into a real estate investment trust~~ on the terms set out in the Plan of Arrangement and as described in the Information Circular;
- (e) **"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;
- (f) **"Audit Committee"** means the ~~Audit Committee of the Board~~ committee established pursuant to Section 10.3;
- (g) **"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 Ernst & Young LLP, Chartered Accountants;
- (h) **"Beneficial Owner"** has the meaning given thereto in Subsection 7.13(c);
- (i) **"Board"** or **"Board of Trustees"** means the board of trustees of the Trust;
- (j) **"Business Day"** means any day other than a Saturday, Sunday or statutory holiday in the Province of Nova Scotia;
- (k) **"CDS"** means CDS Clearing and Depository Services Inc. and its successors;
- (l) **"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;
- (m) **"Chair of Trustees", "President", "Chief Executive Officer", "Chief Financial Officer", "Executive Vice President", and "Secretary"** mean the person(s) holding the respective office from time to time if so elected, appointed, engaged or employed by the Trustees;

- (n) **"Closing"** means the closing of the Arrangement as described in the Information Circular; ~~and **"Closing Date"** means the date on which the Closing occurs;~~
- (o) **"Compensation & HR Committee"** means the ~~Compensation Committee of the Board~~committee established pursuant to Section 10.5;
- (p) **"Governance, ~~Nomination and Succession~~ & ESG Committee"** means the ~~Governance, Nomination and Succession Committee of the Board~~committee established pursuant to Section 10.4;
- (q) **"Declaration of Trust"** means this declaration of Trust as amended, supplemented or amended and restated from time to time;
- (r) **"dissenting offeree"** means, where a take-over bid is made for all of the Trust Units other than those held by the offeror (its affiliates and associates), a holder of Trust Units who does not accept the take-over bid and includes a subsequent holder of those Trust Units who acquires them from the first mentioned holder;
- (s) **"Distribution Date"** means, any date on which the Trustees have determined that a distribution will be made by the Trust to the Trust Unitholders, which date shall be on or about the 15th day of the month following a Distribution Record Date or, if any such day is not a business day, the next following business day, or such other date as may be determined from time to time by the Trustees or otherwise in accordance with this Declaration of Trust;
- (t) **"Distribution Record Date"** has the meaning given thereto in Section 11.1;
- (u) **"Exchange Offer"** has the meaning given thereto in Subsection 7.27(r);
- (v) **"Exchangeable Securities"** means securities exchangeable into Trust Units;
- (w) **"Fiscal Year"** means each fiscal year of the Trust;
- (x) **"Gross Book Value"** means, at any time, the greater of (i) the value of the assets of the REIT and its consolidated Subsidiaries, as shown on its then most recent consolidated statement of financial position and (ii) the historical cost of the assets of the REIT and its consolidated subsidiaries;
- (y) **"herein", "hereof", "hereby", "hereunder", "this Declaration of Trust", "this Declaration"** and similar expressions refer to this Declaration of Trust and include every instrument supplemental or ancillary to or in implementation of this Declaration of Trust and, except where the context otherwise requires, does not refer to any particular article, section or other portion hereof or thereof;
- (z) **"IFRS"** means International Financial Reporting Standards, issued by the International Accounting Standards Committee, and as adopted by the Canadian Institute of Chartered Accountants, as amended from time to time;
- (aa) **"including"** means "including, without limitation";
- (bb) **"indebtedness"** means (without duplication) on a consolidated basis:

- (i) any obligation of such person for borrowed money (including, for greater certainty, the full principal amount of convertible indebtedness, notwithstanding its presentation under IFRS);
- (ii) any obligation of such person for borrowed money incurred in connection with the acquisition of property, assets or businesses;
- (iii) any obligation of such person issued or assumed as the deferred purchase price of property;
- (iv) any capital lease obligation of such person; and
- (v) any obligations of the type referred to in clauses (i) through (iv) of another person, the payment of which such person has guaranteed or for which such person is responsible or liable,

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

- (cc) **"Independent Trustee"** means, at any time, for purposes of the Audit Committee, a Trustee who, in relation to the Trust, is "independent" for purposes of National Instrument 52-110 – *Audit Committees*, as replaced or amended from time to time and, for all other purposes, at any time, a Trustee who, in relation to the Trust, is "independent" for the purposes of National Instrument 58-101 *Disclosure of Corporate Governance Practices*, as replaced or amended from time to time;
- (dd) **"Information Circular"** means the management information circular of Killam prepared in connection with a special meeting of Killam relating to the approval of the Arrangement and any amendments thereto;
- (ee) **"Initial Contribution"** means the amount of \$10 paid by the Initial Unitholder to the Initial Trustees for the purpose of establishing the Trust;
- (ff) **"Initial Trust Unit"** means the initial Trust Unit issued by the Trust to the Initial Unitholder;
- (gg) **"Initial Unitholder"** means the person named herein as the first unit holder of the Initial Trust Unit;
- (hh) **"Investment Committee"** means, ~~if appointed by the Board, the Investment Committee of the Board~~ the committee established pursuant to Section 10.2;
- (ii) **"Killam"** means Killam Properties Inc., and includes any successors;

- (jj) **"Monthly Limit"** has the meaning given thereto in Paragraph 7.14(d)(i);
- (kk) **"mortgage"** means any mortgage, charge, hypothec, bond, debenture, note or other evidence of indebtedness, in each case which is directly or indirectly secured by real property;
- (ll) **"NCI"** means the non-certificated inventory system of CDS;
- (mm) **"net realized capital gains of the Trust"** for any period means the amount, if any, by which the aggregate amount of the realized capital gains of the Trust for the year, calculated in accordance with the Tax Act exceeds the aggregate of: (i) the amount of any realized capital losses of the Trust for the year determined in accordance with the Tax Act; (ii) any capital gains realized by the Trust on the disposition of any of its property designated as having been paid to the redeeming Unitholders pursuant to Section 7.14; (iii) the amount of any net capital losses of the Trust carried forward from a prior taxation year to the extent not previously deducted from realized capital gains of the Trust in accordance with the Tax Act; and (iv) any amount in respect of which the Trust is entitled to a capital gains refund under the Tax Act, as determined by the Trustees; provided that at the discretion of the Trustees, the net realized capital gains of the Trust for a year may be calculated without subtracting the full amount of the net capital losses of the Trust for the year and/or without subtracting the full amount of the net capital losses of the Trust carried forward from prior years;
- (nn) **"Nominating Unitholder"** has the meaning given thereto in Paragraph 8.4(a)(iii);
- (oo) **"Non-Resident"** means an individual (including a trust) or a corporation who is not a Resident and a partnership that is not a "Canadian partnership" within the meaning of the Tax Act;
- (pp) **"Notice Date"** has the meaning given thereto in Subsection 8.4(c);
- (qq) **"offeree"** means a person to whom a take-over bid is made;
- (rr) **"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 Trust Units for which a take-over bid is made;
- (ss) **"person"** means and includes any individual, general partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, joint stock company, association, trust, trust company, bank, pension fund, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or other organization or entity, whether or not a legal entity, however designated or constituted;
- (tt) **"Plans"** means, collectively, trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans, deferred profit sharing plans, registered disability savings plans and tax-free saving accounts, each as described in the Tax Act;
- (uu) **"Plan of Arrangement" has the meaning given thereto in 7.3(b)(iv);**

- (vv) ~~(uu)~~ **"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 interests in real property (whether by way of tenancy-in-common, joint tenancy, co-ownership, joint venture, syndicate or otherwise), any interests in any of the foregoing and securities of trusts, corporations or partnerships the sole or principal purpose and activity of which is to invest in, hold and deal in real property;
- (ww) ~~(vv)~~ **"Redemption Date"** has the meaning given thereto in Paragraph 7.14(c)(i);
- (xx) ~~(ww)~~ **"Redemption Notes"** means unsecured subordinated promissory notes of the Trust having a maturity date to be determined at the time of issuance by the Trustees (provided that in no event shall the maturity date be set at a date subsequent to the first Business Day following the fifth anniversary of the date of issuance of such note), bearing interest from the date of issue at a market rate of interest determined at the time of issuance by the Trustees, payable for each month during the term on the 15th day of each subsequent month with all principal being due on maturity, such promissory notes to provide that the Trust shall at any time be allowed to prepay all or any part of the outstanding principal without notice or bonus;
- (yy) ~~(xx)~~ **"Redemption Price"** has the meaning given thereto in Paragraph 7.14(c)(i);
- (zz) ~~(yy)~~ **"Register"** has the meaning given thereto in Section 7.19;
- (aaa) **"Renunciation" has the meaning given thereto in Section 7.28;**
- (bbb) **"Renunciation Notice" has the meaning given thereto in Section 7.28;**
- (ccc) ~~(zz)~~ **"Resident"** means an individual (including a trust) or a corporation who is, or is deemed to be, resident in Canada for purposes of the Tax Act, or a partnership that is a "Canadian partnership" for purposes of the Tax Act;
- (ddd) ~~(aaa)~~ **"Retiring Trustee"** has the meaning given thereto in Section 3.7;
- (eee) ~~(bbb)~~ **"Securities Laws"** means, collectively, the applicable securities laws of each of the provinces and territories of Canada and the respective regulations and rules made under those securities laws together with all published policy statements, instruments, blanket orders and rulings of Canadian securities commissions and all discretionary orders or rulings, if any, of Canadian securities commissions made in connection with the transactions contemplated by this Declaration of Trust;
- (fff) ~~(eee)~~ **"SIFT Legislation"** means the provisions of the Tax Act that apply to a "SIFT trust" or "SIFT partnership" (as each such term is defined in the Tax Act), taking into account all specific proposals to amend the Tax Act publicly announced by or on behalf of the Minister of Finance (Canada), with respect to such provisions;
- (ggg) ~~(ddd)~~ **"Special Resolution"** has the meaning given thereto in Section 8.17;
- (hhh) **"Special Units" means the special units of the Trust;**
- (iii) **"Special Unit Redemption Amount" has the meaning given thereto in Paragraph 7.3(b)(iv);**
- (jjj) ~~(eee)~~ **"Special Voting Units"** means the special voting units of the Trust;

- (kkk) "Special Unitholder" means at any time the holders at that time of one or more Special Units, as shown on the register of such holders maintained by the Transfer Agent on behalf of the Trust;
- (lll) ~~(fff)~~ **"Special Voting Unitholders"** means at any time the holders at that time of one or more Special Voting Units, as shown on the register of such holders maintained by the Transfer Agent on behalf of the Trust;
- (mmm) ~~(ggg)~~ **"Subsidiary"** and **"Subsidiaries"** has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus and Registration Exemptions*, as replaced or amended from time to time;
- (nnn) ~~(hhh)~~ **"take-over bid"** has the meaning given thereto in the *Securities Act* (Ontario) as replaced or amended from time to time;
- (ooo) ~~(iii)~~ **"Tax Act"** means the *Income Tax Act* (Canada) and the regulations thereunder, as replaced or amended from time to time;
- (ppp) ~~(jjj)~~ **"Taxation Year"** means the taxation year of the Trust for the purposes of the Tax Act;
- (qqq) ~~(kkk)~~ **"Transfer Agent"** means any such company as may from time to time be appointed by the Trust to act as registrar and transfer agent of the Units, together with any sub-transfer agent duly appointed by the Transfer Agent and, initially, means Computershare Investor Services Inc.;
- (rrr) ~~(lll)~~ **"Trust"** means Killam Apartment Real Estate Investment Trust, a trust created pursuant to and governed by this Declaration of Trust pursuant to the laws of Canada;
- (sss) ~~(mmm)~~ **"Trust Unit"** means a unit of the Trust or a fraction thereof but, for greater certainty, excludes a Special Voting Unit and a Special Unit;
- (ttt) ~~(nnn)~~ **"Trust Unitholder"** means a person whose name appears on the Register as a holder of one or more Trust Units or of a fraction of a Trust Unit;
- (uuu) ~~(ooo)~~ **"Trustees"** means the trustee or trustees of the Trust holding office under and in accordance with this Declaration of Trust from time to time and **"Trustee"** means any one of them;
- (vvv) ~~(ppp)~~ **"Trustees' Regulations"** means the regulations adopted by the Trustees pursuant to Section 4.3;
- (www) ~~(qqq)~~ **"TSX"** means the Toronto Stock Exchange;
- (xxx) ~~(rrr)~~ **"Unit Certificate"** means a certificate, in the form stipulated by Article VII, evidencing one or more Trust Units, issued and certified in accordance with the provisions hereof;
- (yyy) ~~(sss)~~ **"Unitholder"** means a person whose name appears on the Register as a holder of one or more Trust Units, or a fraction thereof, but **"unitholder"** when used in lowercase, refers to all holders of Units, whose name appears on the Register as holder of one or more Trust Units or Special Voting Units, or a fraction thereof; and

(zzz) ~~(ttt)~~ "Units" means, collectively, the Trust Units ~~and~~, Special Voting Units and the Special Units.

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 may 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 11.1, 11.2 and 11.3.

1.4 Time of Essence

Time shall be of essence in this Declaration of Trust.

ARTICLE II 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 Initial Trustees for the purpose of establishing the Trust.

2.3 Name

The name of the Trust is Killam Apartment Real Estate Investment Trust. 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 Killam Apartment Real Estate Investment Trust 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 Situs, Mind and Management and Head Office

The principal and head office and centre of administration of the Trust shall be located at 3700 Kempt Road, Halifax, Nova Scotia, B3K 4X8. The registered office of the Trust shall be located at ~~2571 Windsor Street~~3700 Kempt Road, Halifax, Nova Scotia, B3K ~~5C4X8~~4X8, 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. The situs, mind and management of the Trust shall be situated in the Province of Ontario.

2.6 Nature of the Trust

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

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

The Trust is not and is not intended to be, shall not be deemed to be and shall not be treated, as a general partnership, limited partnership, syndicate, association, joint venture, agency, 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 property of the Trust shall be solely that of beneficiaries of the Trust and their rights shall be limited to those conferred upon them by this Declaration of Trust.

2.7 Rights of Unitholders

The rights of each beneficiary of the Trust are described by reference to Trust Units. 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's property or for a distribution of any particular asset forming part of the Trust's property or of any particular monies or funds received by the Trustees. The legal ownership of the property of the Trust and the right to conduct the activities of the Trust are vested exclusively in the Trustees, and no Unitholder has or is deemed to have any right of ownership in any of the property of the Trust, except as specifically provided herein. Except as specifically provided herein, no unitholder shall be entitled to interfere with or give any direction to the Trustees with respect to the affairs of the Trust or in connection with the exercise of any powers or authorities conferred upon the Trustees under this Declaration of Trust. The Units shall be personal property and shall confer upon the holders thereof only the interest and rights specifically set forth in this Declaration of Trust.

2.8 Accounting Principles

Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made for the purpose of

this Declaration of Trust, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with IFRS, and all financial data prepared pursuant to this Declaration of Trust shall be prepared in accordance with such principles, consistently applied. In the event of a change in IFRS, the Trustees shall revise (if appropriate) the financial data prepared pursuant to this Declaration of Trust to reflect IFRS as then in effect, in which case all financial data shall be made on a basis consistent with IFRS in existence as at the date of such revisions.

ARTICLE III **TRUSTEES AND OFFICERS**

3.1 Number

There shall be a minimum of five (5) and a maximum of twelve (12) Trustees. The number of Trustees within such minimum and maximum numbers may be changed by the Unitholders or by the Trustees from time to time at their discretion. ~~Notwithstanding the foregoing, the number of Trustees comprising the Board will be set at nine (9) Trustees following Closing.~~

3.2 Term

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

3.3 Qualifications of Trustees

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

3.4 Residency of Trustees

A majority of the Trustees must be Residents. If at any time a majority of the Trustees or a majority of the Trustees of any committee of the Trustees are not Residents because of the death, resignation, insolvency, bankruptcy, Adjudicated Incompetence or incapacity, removal or change in circumstance of any Trustee who was a Resident Trustee, or there are no Trustees who are Residents, the Trustee or Trustees who are Non-Residents shall, immediately before that time, be deemed to have resigned and shall cease to be Trustees with effect from the time of such deemed resignation and the remaining Trustees shall appoint a sufficient number of Resident Trustees to comply with this requirement. If at any time the number of Trustees is less than the number required under this Declaration of Trust and the remaining Trustee or Trustees fail or are unable to act in accordance with Section 3.7 and/or Section 3.12 to appoint one or more additional Trustees or if, upon the resignation or deemed resignation of one or more Trustees there would be no Trustees, then any remaining Trustee or unitholder or officer of the Trust or the Auditors, as the case may be, may apply to the Superior Court of Ontario for an order appointing one or more Trustees so that following such appointment a majority of the Trustees are Residents, to act until the next annual meeting of unitholders or on such other terms as the Court may order. Any Trustee who is a Resident who proposes to become a Non-Resident shall notify the other Trustees thereof as soon as reasonably practicable and, if a majority of the Trustees would not be Residents if such Trustee became a Non-Resident, such Trustee shall resign as a Trustee effective upon the day of such notification and shall be replaced with a Trustee who is a Resident.

3.5 Election of Trustees

Subject to Sections 3.1, 3.3, 3.4, 3.6, 3.8 and 3.12, the election of the Trustees shall be by the vote of unitholders. The appointment or election of any Trustee (other than an individual who is serving as a Trustee immediately prior to such appointment or election) shall not become effective unless and until, in the case of the initial election or appointment of a Trustee, such person shall have in writing accepted such appointment or election and agreed to be bound by the terms of this Declaration of Trust.

3.6 Independent Trustees

A majority of the Trustees must qualify as "independent" within the meaning of National Instrument 52-110 – *Audit Committees*, as replaced or amended from time to time, for the purposes of the Audit Committee and within the meaning of National Instrument 58-101 – *Disclosure of Corporate Governance Practices*, as amended or replaced from time to time, for all other purposes, provided, however, that if at any time a majority of the Trustees are not independent because of the death, resignation, bankruptcy, Adjudicated Incompetence, removal or change in circumstance of any Trustee who was an independent Trustee, this requirement shall not be applicable for a period of 60 days thereafter, during which time the remaining Trustees shall appoint a sufficient number of Trustees who qualify as "independent" to comply with this requirement.

3.7 Resignations, Removal, Incapacity and Death of Trustees

- (a) A Trustee may resign at any time by an instrument in writing signed by the Trustee and delivered or mailed to the Chair of Trustees or the Board of Trustees. A resignation of a Trustee becomes effective at the time a written resignation is received by the Trust, or at the time specified in the resignation.
- (b) A Trustee may be removed at any time with or without cause by a majority of the votes cast at a meeting of Unitholders called for that purpose or with cause by the resolution passed by an affirmative vote of not less than two-thirds of the remaining Trustees. Any removal of a Trustee shall take effect immediately following the aforesaid vote or resolution or at any later time specified in the notice without need for prior accounting, and any Trustee so removed shall be so notified by the Chair of Trustees, Chief Executive Officer or another officer of the Trust or if there is no officer of the Trust, by any remaining Trustee or if there is no Trustee then remaining, by the unitholders, following such removal.
- (c) Upon the resignation or removal of any Trustee, or such Trustee otherwise ceasing to be a Trustee (in each case, a "**Retiring Trustee**"), such Retiring Trustee shall cease to have the rights, privileges and powers of a Trustee hereunder, shall account to the remaining Trustees as they may require for all property which he or she holds as Trustee and do all such other things as may be required pursuant to Subsection 3.11(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 XVI.
- (d) Upon the incapacity or death of any Trustee, such Retiring Trustee's legal representative shall execute and deliver on such Trustee's behalf such documents as the remaining Trustees may require as provided in this Section 3.7. In the event that a Trustee or his legal representatives, as applicable, are unable or unwilling to execute and deliver such required documents, each of the remaining Trustees is hereby appointed as the attorney of such Trustee for the purpose of executing and delivering such required documents.

3.8 Appointment of Trustees

The appointment of the Trustees named in the First Part above is hereby confirmed and the term of office applicable to each Trustee shall expire at the close of the first annual meeting of Unitholders. Except as otherwise provided herein, Trustees shall be elected (including the re-election of incumbent Trustees) at each annual meeting of unitholders, and may be elected at a special meeting of unitholders. Any such election shall be made either by a resolution approved by a majority of the votes cast at a meeting of unitholders or shall be made by resolution in writing in the manner set out in Section 8.15. Notwithstanding the foregoing:

- (a) if no Trustees are elected at the annual meeting of unitholders held immediately before the term of office of the then existing Trustees expires, such existing Trustees shall continue to hold the office of Trustees under this Declaration of Trust until successors have been appointed or they cease to hold office; and
- (b) the Trustees may, between annual meetings of the unitholders, appoint one or more additional Trustees to serve until the next annual meeting of Unitholders; provided that the number of additional Trustees so appointed will not at any time exceed one-third of the number of Trustees who held such office at the conclusion of the immediately preceding annual meeting of unitholders (rounding to the nearest whole number).

3.9 Consent to Act

- (a) A person who is appointed a Trustee hereunder shall not become a Trustee until the person has, either before or after their initial appointment as Trustee, 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: Killam Apartment Real Estate Investment Trust (the "Trust")

And to: The Trustees thereof

The undersigned hereby certifies that he or she [is/is not] a resident of Canada within the meaning of the *Income Tax Act* (Canada) and consents to act as a Trustee of the Trust and hereby agrees, upon the date of this consent and 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 28th day of October, 2015, as amended, supplemented or amended and restated from time to time, constituting the Trust.

Dated:

[Signature]

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

3.10 Failure to Elect Minimum Number of Trustees

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

3.11 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 3.3;
 - (ii) the Trustee ceases to be a Trustee in accordance with Section 3.4;
 - (iii) the Trustee dies or resigns; or
 - (iv) the Trustee is removed in accordance with Section 3.7.
- (b) Upon a Trustee ceasing to hold office as such hereunder, such Trustee shall cease to be a party (as a Trustee) to this Declaration of Trust; provided, however, that such Trustee shall continue to be entitled to be paid any amounts owing by the Trust to the Trustee and to the benefits of the indemnity provided in Section 16.2. Such Trustee shall execute and deliver such documents as the remaining Trustees shall reasonably require for the conveyance of any Trust property held in that Trustee's name, shall account to the remaining Trustees as they may reasonably require for all property which that Trustee holds as Trustee, shall resign from all directorship or similar positions held by such Trustee in any entity in which the Trust has an interest and shall thereupon be discharged as Trustee. Upon the incapacity or death of any Trustee, his legal representative shall execute and deliver on his behalf such documents as the remaining Trustees may reasonably require as provided in this Subsection 3.11(b). In the event that a Trustee or his legal representatives, as applicable, are unable or unwilling to execute and deliver such required documents, each of the remaining Trustees is hereby appointed as the attorney of such Trustee for the purposes of executing and delivering such required documents. This power of attorney granted to each of the remaining Trustees is not intended to be an enduring power of attorney within the meaning of the *Powers of Attorney Act* (Ontario), exercisable during a Trustee's incapacity to manage property, or any similar power of attorney under equivalent legislation in any of the provinces or territories of Canada (a "CPOA"). The execution of this power of attorney will not terminate any CPOA granted by the Trustee previously and will not be terminated by the execution by the Trustee in the future of a CPOA, and the Trustee hereby agrees not to take any action in future which results in the termination of this power of attorney.

3.12 Vacancies by Trustees

The death, resignation, bankruptcy, Adjudicated Incompetence or other incapacity to exercise the duties of the office of a Trustee or the removal or other cessation to hold office of a Trustee shall not operate to annul this Declaration of Trust or affect the continuity of the Trust. Until vacancies are filled, the remaining Trustee or Trustees (even if less than a quorum) may exercise the powers of the Trustees hereunder. In the case of a vacancy, the unitholders 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 may fill such vacancy, except a vacancy resulting from an increase in the number of Trustees or from a failure of the unitholders to elect the minimum number of Trustees fixed by or pursuant to this Declaration of Trust. If there is not such a quorum of Trustees and there is a failure by the unitholders to elect the minimum number of Trustees required by or pursuant to this Declaration of Trust, the Trustees then in office shall

promptly call a special meeting of unitholders to fill the vacancy and, if they fail to call a meeting or if there are no Trustees then in office, the meeting may be called by any unitholder. A Trustee appointed to fill a vacancy holds office, subject to Section 3.7 and Section 3.11, until the close of the next annual meeting of the unitholders, unless such Trustee is elected at the next annual meeting.

3.13 Successor and Additional Trustees

The right, title and interest of the Trustees in and to the property and assets of the Trust shall vest automatically in all persons who may hereafter become Trustees upon their due election or appointment and qualification and acceptance thereof without any further act and they shall thereupon have all the rights, privileges, powers, obligations and immunities of Trustees hereunder. Such right, title and interest shall vest in the Trustees whether or not conveyancing documents have been executed and delivered pursuant to Section 3.11 or otherwise.

3.14 Compensation and Other Remuneration

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

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

3.15 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 IV TRUSTEES' POWERS AND DUTIES

4.1 General Powers

The Trustees, subject only to the terms and conditions contained in this Declaration of Trust, including without limitation, Sections 6.1, 6.2 and 8.8, shall have, without further or other authorization and free from any control or direction on the part of the Unitholders, full, absolute and exclusive power, control and authority over the assets of the Trust and over the operations of the Trust to the same extent as if the Trustees were the sole and absolute legal and beneficial owners of such assets in their own right, to do all such acts and things as in their sole judgment and discretion are necessary or incidental to, or desirable for, the carrying out of any of the purposes of the Trust or the conducting of the affairs of the Trust. In construing the provisions of this Declaration of Trust, there shall be a presumption in favour of the power and authority having been granted to the Trustees. The enumeration of any specific power or authority herein shall not be construed as limiting the general powers or authority or any other specified power or authority conferred herein on the Trustees. Except as specifically required by such laws, the Trustees shall in carrying out investment activities not be in any way restricted by the provisions of the laws of any jurisdiction limiting or purporting to limit investments which may be made by trustees. Without limiting

the generality of the foregoing, the Trustees may, subject to the terms and conditions contained in this Declaration of Trust, make any investments without being required to adhere to all of, or any particular portion of the investment criteria or diversification requirements set forth in the *Trustee Act* (Ontario), as replaced or amended from time to time, including, without limitation, investments in mutual funds, common trust funds, unit trusts and similar types of investment vehicles, to alter or vary such investments from time to time in a like manner, to retain such investments for such length of time as the Trustees, in their discretion determine and to delegate management and authority to discretionary managers of investment funds as the Trustees in their discretion determine appropriate.

For greater certainty and without limiting the generality of this Section 4.1, the Trust is authorized to complete [the Arrangement or](#) the transactions described in the Information Circular.

4.2 Specific Powers and Authorities

Subject only to the terms and conditions contained in this Declaration of Trust including, without limitation in Sections 6.1, 6.2 and 8.8, and in addition to any powers and authorities conferred by this Declaration of Trust or which the Trustees may have by virtue of any present or future statute or rule of law, the Trustees, without any action or consent by the unitholders, shall have and may exercise, on behalf of the Trust or otherwise, at any time and from time to time the following powers and authorities which may or may not be exercised by them in their sole judgment and discretion and in such manner and upon such terms and conditions as they may from time to time deem proper:

- (a) to retain, invest and re-invest the capital or other funds of the Trust, directly or indirectly, in real or personal property of any kind, and to possess and exercise all the rights, powers and privileges appertaining to the ownership of the property of the Trust and to increase the capital of the Trust at any time by the issuance of additional Units for such consideration as they deem appropriate;
- (b) for such consideration as they deem proper, to invest in, purchase or otherwise acquire for cash or other property or through the issuance of Units or through the issuance of notes, debentures, bonds or other obligations or securities of the Trust and hold for investment, directly or indirectly, the entire or any interest in any real property. In connection with any such investment, purchase or acquisition, the Trustees shall have the power to acquire all or a share of the rents, lease payments or other gross income or profits from or in the equity in or ownership of real property;
- (c) to sell, rent, lease, hire, exchange, release, partition, assign, mortgage, pledge, hypothecate, grant security interests in, encumber, negotiate, convey, transfer or otherwise dispose of any or all of the property of the Trust by deeds, trust deeds, assignments, bills of sale, transfers, leases, mortgages, financing statements, security agreements and other instruments for any of such purposes executed and delivered for and on behalf of the Trust by one or more of the Trustees or by a duly authorized officer, employee, agent or any nominee of the Trust;
- (d) to enter into leases, contracts, obligations and other agreements for a term extending beyond the term of office of the Trustees and beyond the possible termination of the Trust or for a lesser term;
- (e) to 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 its third parties; to enter into other obligations on behalf of the Trust; and to assign, convey, transfer, mortgage, subordinate, pledge, grant security interests in, encumber or hypothecate the property of the Trust to secure any of the foregoing;

- (f) without limit as to amount, to issue any type of debt securities or convertible debt securities and to borrow money or incur any other form of indebtedness for the purpose of carrying out the purposes of the Trust or for other expenses incurred in connection with the Trust and for such purposes may draw, make, execute and issue promissory notes and other negotiable and non-negotiable instruments or securities and evidences of indebtedness, secure the payment of sums so borrowed or indebtedness incurred and mortgage, pledge, assign or grant a security interest in any money owing to the Trust or its property or engage in any other means of financing the Trust;
- (g) to lend money or other property of the Trust, whether secured or unsecured;
- (h) to establish systems to monitor the qualification of the Trust as a "mutual fund trust", a "unit trust" and a "real estate investment trust" within the meaning of the Tax Act;
- (i) to incur and pay out of the property of the Trust any charges or expenses and disburse any funds of the Trust, which charges, expenses or disbursements are, in the opinion of the Trustees, necessary or incidental to or desirable for the carrying out of any of the purposes of the Trust or conducting the affairs of the Trust including, without limitation, charitable donations, taxes or other governmental levies, charges and assessments of whatever kind or nature, imposed upon or against the Trustees in connection with the Trust or the property of the Trust or upon or against the property of the Trust or any part thereof and for any of the purposes herein;
- (j) to deposit funds of the Trust in banks, trust companies and other depositories, whether or not such deposits will earn interest, the same to be subject to withdrawal on such terms and in such manner and by such person or persons (including, without limitation, any one or more Trustees, officers, agents or representatives) as the Trustees may determine;
- (k) to possess and exercise all the rights, powers and privileges appertaining to the ownership of or interest in all or any mortgages or securities, issued or created by, or interest in, any person, forming part of the assets of the Trust, to the same extent that an individual might and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or action generally or for any particular meeting or action and may include the exercise of discretionary power;
- (l) to exercise any conversion privilege, subscription right, warrant or other right or option available in connection with any property of the Trust at any time held by it and to make payments incidental thereto; to consent, or otherwise participate in or dissent from, the reorganization, consolidation, amalgamation, merger or readjustment of the finances of any person (other than the Trust), any of the securities of which may at any time be held, directly or indirectly, by the Trust, or to the sale, mortgage or lease of the property of any such person; and to do any act with reference thereto, including (without limitation) the delegation of discretionary powers, the exercise of options, the making of agreements or subscriptions and the payment of expenses, assessments or subscriptions which it may consider necessary or advisable in connection therewith;
- (m) to elect, appoint, engage or employ officers for the Trust (including, without limitation, the Chair of Trustees, President, Chief Executive Officer, Chief Financial Officer, Executive Vice Presidents, Secretary, and such vice-presidents and other officers as the Trustees may determine), who may be removed or discharged at the discretion of the Trustees, such officers to have such powers and duties, and to serve such terms as may be prescribed by the Trustees or by the Trustees' Regulations; to engage, appoint, employ or contract with any persons as agents, representatives, employees or independent

contractors or otherwise (including, without limitation, real estate advisors, investment advisors, registrars, underwriters, accountants, lawyers, real estate agents, property managers, appraisers, brokers, architects, engineers, construction managers, general contractors or otherwise) in one or more capacities, and to pay compensation from the Trust for services in as many capacities as such persons may be so engaged or employed; and, except as prohibited by law or this Declaration of Trust, to delegate any of the powers and duties of the Trustees (including, without limitation, the power of delegation) to any one or more Trustees, agents, representatives, officers, employees, independent contractors or other persons without regard to whether such power, authority or duty is normally granted or delegated by Trustees;

- (n) to collect, sue for and receive sums of money coming due to the Trust, and to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, proceedings, disputes, claims, demands or other litigation relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefor whether or not any suit is commenced or claim accrued or asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- (o) to renew, modify, release, compromise, extend, consolidate or cancel, in whole or in part, any obligation to or of the Trust;
- (p) to purchase and pay for, out of the assets of the Trust, insurance contracts and policies insuring the assets of the Trust against any and all risks and insuring the Trust and/or any or all of the Trustees, the Unitholders or officers of the Trust against any and all claims and liabilities of any nature asserted by any person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustees, the Unitholders or the officers of the Trust;
- (q) to cause legal title to any of the assets of the Trust to be held by and/or in the name of the Trustees, or by and/or in the name of the Trust or one or more of the Subsidiaries or any other person or persons, on such terms, in such manner and with such powers in such person or persons as the Trustees may determine and with or without disclosure that the Trust or Trustees are interested therein provided, however, that should legal title to any of the assets of the Trust be held by and/or in the name of any person or persons other than the Trust, the Trustees shall require such person or persons to execute a declaration of trust acknowledging that legal title to such assets is held in trust for the benefit of the Trust;
- (r) to determine conclusively the allocation to capital, income or other appropriate accounts for all receipts, expenses, disbursements and, property of the Trust;
- (s) to issue Units for such consideration as the Trustees may deem appropriate in their sole discretion, such issuance to be subject to the terms and conditions of this Declaration of Trust;
- (t) to make or cause to be made application for the listing on any stock exchange of any Units or other securities of the Trust, and to do all things which in the opinion of the Trustees may be necessary or desirable to effect or maintain such listing or listings;
- (u) to prepare, sign and file or cause to be prepared, signed and filed any prospectus, offering memorandum or similar document, and any amendment thereto and all agreements contemplated therein or ancillary thereto or relating to or resulting from any offerings of the Units or other securities issued or held by the Trust and to pay the cost thereof and related thereto out of the property of the Trust whether or not such offering is or was of

direct benefit to the Trust or those persons (if any) who were Unitholders immediately prior to such offering;

- (v) in addition to the mandatory indemnification provided for in Section 16.2, to the extent permitted by law, to indemnify, or enter into agreements with respect to the indemnification of any person with whom the Trust has dealings including, without limitation, the Trustees, the officers of the Trust, the depository, the Transfer Agent or any escrow agent, to such extent as the Trustees shall determine;
- (w) to determine conclusively the value of any or all of the property of the Trust from time to time and, in determining such value, to consider such information and advice as the Trustees, in their sole judgment, may deem material and reliable;
- (x) to do all such acts and things and to exercise such powers as may be delegated to the Trustees by any person who co-owns real property with the Trust;
- (y) to pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Trustees in connection with the Trust's assets, undertaking or income of the Trust, or imposed upon or against the Trust's assets, undertaking or income of the Trust, or any part thereof and to settle or compromise disputed tax liabilities and for the foregoing purposes to prepare and file such returns, take such deductions, and make such designations, elections and determinations in respect of the income or net realized capital gains of the Trust and any other matter as shall be permitted under the Tax Act or other tax statute (provided that to the extent necessary the Trustees will seek the advice of the Trust's counsel or the Auditor), and do all such other acts and things as may be deemed by the Trustees in their sole discretion to be necessary, desirable or convenient in connection with the foregoing; and
- (z) to do all such other acts and things as are incidental to the foregoing, and to exercise all powers that are necessary or useful to carry on the undertakings of the Trust, to promote any of the purposes for which the Trust is formed and to carry out the provisions of this Declaration of Trust.

4.3 Further Powers of the Trustees

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

Subject to any agreement between the Trust and any Trustee and subject as otherwise herein provided, the Trustees may from time to time in their discretion appoint, employ, invest in, contract or deal with any person including, without limitation, any affiliate of any of them and any person in which any one or more of them may be directly or indirectly interested and, without limiting the generality of the foregoing, any Trustee may purchase, hold, sell, invest in or otherwise deal with real property or other property of the same class and nature as may be held by the Trustees as property of the Trust, whether for the Trustee's own

account or for the account of another (in a fiduciary capacity or otherwise), without being liable to account therefor and without being in breach of his duties and responsibilities hereunder.

4.4 Banking

The banking activities of the Trust, or any part thereof, including, but without restricting the generality of the foregoing, the operation of the Trust's accounts; the making, signing, drawing, accepting, endorsing, negotiation, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for orders relating to any property of the Trust; the execution of any agreement relating to any property of the Trust; the execution of any agreement relating to any such banking activities and defining the rights and powers of the parties thereto; and the authorizing of any officer of such bank to do any act or thing on the Trust's behalf to facilitate such banking activities, shall be transacted with such bank, trust company, or other firm or corporation carrying on a banking business as the Trustees may designate, appoint or authorize from time to time and shall be transacted on the Trust's behalf by one or more officers of the Trust as the Trustees may designate, appoint or authorize from time to time.

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 the Unitholders 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 and the Unitholders or, in connection therewith, fails to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The duties and standard of care of the Trustees provided as aforesaid are intended to be similar to, and not to be any greater than, those imposed on a director of a corporation governed by the *Canada Business Corporations Act*.

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's property, all fees, costs and expenses properly incurred in connection with the administration and management of the Trust, including (without limitation) real property and brokerage commissions in respect of investments and dispositions of real property made by the Trust, charitable donations, 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's property.

4.7 Reliance Upon Trustees

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

funds or property passing into the hands or control of the Trustees. The receipt by or on behalf of the Trustees or officers of the Trust for monies or other consideration shall be binding upon the Trust.

4.8 Determinations of Trustees Binding

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

4.9 Limitations on Liability of Trustees

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

4.10 Conflict of Interest

- (a) Subject to Section 17.20, 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); or
 - (ii) is a director or officer of, or otherwise has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Trust (or an affiliate thereof),

such Trustee or officer of the Trust shall disclose in writing to the Trustees or request to have entered into the minutes of meetings of the Trustees or Investment Committee 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 or the Investment Committee at which a proposed material contract or transaction is first considered;
 - (B) if the Trustee was not then interested in a proposed material contract or transaction, at the first such meeting after he becomes so interested;
 - (C) if the Trustee becomes interested after a material contract is made or a transaction is entered into, at the first meeting after he becomes so interested; or
 - (D) if a person who is interested in a material contract or transaction later becomes a Trustee, at the first such meeting after he becomes a Trustee;
- (iv) the disclosure required in the case of an officer of the Trust who is not a Trustee shall be made:
 - (A) forthwith after such person becomes aware that the material contract or transaction or proposed material contract or transaction is to be considered or has been considered at a meeting of the Trustees or the Investment Committee;
 - (B) if such person becomes interested after a material contract is made or transaction is entered into, forthwith after such person becomes aware that he has become so interested; or
 - (C) if a person who is interested in a material contract or a transaction later becomes an officer of the Trust, forthwith after he becomes an officer of the Trust.
- (b) Notwithstanding Paragraphs 4.10(a)(i) and 4.10(a)(ii), where this Section applies to any person in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the affairs of the Trust, would not require approval by the Trustees or the unitholders, such person shall disclose in writing to the Trustees or request to have entered into the minutes of meetings of the Trustees or the Investment Committee the nature and extent of such person's interest forthwith after such person becomes aware of the material contract or transaction or proposed material contract or transaction.

- (c) A Trustee referred to in this Section 4.10 shall not vote on any resolution to approve the said material contract or transaction unless the material contract or transaction is:

- (i) one relating primarily to such Trustee's remuneration as a Trustee, officer, employee or agent of the Trust; or
- (ii) one for indemnity of such Trustee under Section 16.1 hereof or the purchase of liability insurance,

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

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

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

- (i) such person is not accountable to the Trust or to the Unitholders for any profit or gain realized from the material contract or transaction; and
- (ii) the material contract or transaction is neither void nor voidable, by reason only of that relationship or by reason only that such person is present at or is counted to determine the presence of a quorum at the meeting of the Trustees or the Investment Committee that authorized the material contract or transaction, if such person disclosed such person's interest in accordance with this Section 4.10, and the material contract or transaction was reasonable and fair to the Trust at the time it was so approved.

- (f) Notwithstanding anything in this Section 4.10, but without limiting the effect of Subsection 4.10(c) hereof, a Trustee or an officer of the Trust, acting honestly and in good faith, is not accountable to the Trust or to the Unitholders for any profit or gain realized from any such material contract or transaction by reason only of such person holding such office or position, and the material contract or transaction, if it was reasonable and fair to the Trust at the time it was approved, is not by reason only of such person's interest therein void or voidable, where:

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

- (g) Subject to Subsections 4.10(c), 4.10(e) and 4.10(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 4.10, any Trustee or any Unitholder, in addition to exercising any other rights, or remedies in connection with such failure exercisable at law or in equity, may apply to a court for an order setting aside the material contract or transaction and directing that such person account to the Trust for any profit or gain realized.

4.11 Conditions Precedent

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

ARTICLE V OFFICERS OF THE TRUST

5.1 General

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

5.2 Chair of Trustees

The Chair of Trustees 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 at any time remove an officer from office at any time in their sole discretion. For greater certainty, each incumbent officer of the Trust shall continue in office until the earliest of (a) his resignation, which resignation shall be effective at the time a written resignation is received by the Trust upon 30 days' written notice or at the time specified in the resignation or in the officer's employment contract, whichever is later, (b) the appointment of his successor, (c) his removal or leave of absence due to incapacity, Adjudicated Incompetence or otherwise, and (d) his death.

5.4 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 VI **INVESTMENT GUIDELINES AND OPERATING POLICIES**

6.1 Investment Guidelines

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

- (a) the Trust will invest primarily, directly or indirectly, in the acquisition, holding, developing, maintaining, improving, leasing or management of income producing real property, and assets ancillary thereto necessary for the operation of such real property and such other activities as are consistent with the other investment guidelines of the Trust;
- (b) notwithstanding anything else contained in the Declaration of Trust, the Trust shall not make or hold any investment, take any action or omit to take any action or permit a Subsidiary to make or hold any investment or take any action or omit to take any action that would result in:
 - (i) the Trust not qualifying as a "mutual fund trust" or a "unit trust" both within the meaning of the Tax Act;
 - (ii) Trust Units not qualifying as qualified investments for Plans;
 - (iii) the Trust not qualifying as a "real estate investment trust" within the meaning of the Tax Act if, as a consequence of the Trust not so qualifying, the Trust or any of its Subsidiaries would be liable to pay a tax imposed under either paragraph 122(1)(b) or subsection 197(2) of the Tax Act; or
 - (iv) the Trust being liable to pay a tax under Part XII.2 of the Tax Act;
- (c) the Trust and/or its Subsidiaries may make its investments and conduct its activities, directly or indirectly, through an investment in one or more persons, on such terms as the Trustees may from time to time determine, including by way of joint ventures, partnerships (general or limited), and limited liability companies;
- (d) except for temporary investments held in cash, deposits with a Canadian chartered bank or trust company registered under the laws of a province or territory of Canada, deposits with a savings institution, trust company, credit union or similar financial institution that is organized or chartered under the laws of a state or of the United States, short-term government debt securities or money market instruments maturing prior to one year from the date of issue and except as permitted pursuant to these investment guidelines and operating policies of the Trust, the Trust and/or its Subsidiaries may not hold securities of a person other than to the extent such securities would constitute an investment in real property and provided further that, notwithstanding anything contained in the Declaration of Trust to the contrary, but in all events subject to paragraph (b) above, the Trust and/or its Subsidiaries may hold securities of a person (including securities of a reporting issuer or equivalent concept): (i) acquired in connection with the carrying on, directly or

indirectly, of the Trust's activities or the holding of its assets; or (ii) which focuses its activities primarily on the activities described in paragraph (a) above;

- (e) the Trust and/or its Subsidiaries shall not invest in rights to or interests in mineral or other natural resources, including oil or gas, except as incidental to an investment in real property;
- (f) the Subsidiaries of the Trust may invest in mortgages and mortgage bonds (including participating or convertible mortgages) and similar instruments where the real property which is security therefor is real property which otherwise meets the other investment guidelines of the Trust;
- (g) subject to paragraph (b) above, the Trust and/or its Subsidiaries may invest in raw land for development provided such investment wholly or jointly is for the purpose of (i) the renovation or expansion of existing facilities that are capital property of the Trust or a Subsidiary of the Trust, (ii) the development of new projects which will be capital property of the Trust or a Subsidiary of the Trust; or (iii) otherwise consistent with the activities described in paragraph (a) above; and
- (h) unless otherwise specifically prohibited by the Declaration of Trust, the Trust and/or its Subsidiaries may invest in fee simple, leasehold, or other interests in property (real, personal, moveable or immovable).

6.2 Operating Policies

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

- (a) the Trust and/or its Subsidiaries shall not purchase or sell currency or interest rate futures contracts otherwise than for hedging purposes where, for this purpose, the term "hedging" has the meaning given by National Instrument 81-102 – *Mutual Funds*, as replaced or amended from time to time and, in all events, subject to Section 6.1(b);
- (b) (i) any written instrument creating indebtedness or an obligation which is or includes the granting by the Trust of a mortgage; and (ii) to the extent the Trustees determine to be practicable and consistent with their fiduciary duties to act in the best interest of the unitholders, any written instrument which is, in the judgment of the Trustees, a material obligation, shall contain a provision, or be subject to an acknowledgement to the effect, that the obligation being created is not personally binding upon, and that resort must not be had to, nor will recourse or satisfaction be sought from, by lawsuit or otherwise the private property of any of the Trustees, unitholders, annuitants or beneficiaries under a plan of which a unitholder acts as a trustee or carrier, or officers, employees or agents of the Trust, but that only property of the Trust or a specific portion thereof is bound;
- (c) title to real property shall be held by and registered in the name of the Trust, a Subsidiary of the Trust, one or more of the Trustees or any other person or persons in such manner as the Trustees consider appropriate, taking into account advice of legal counsel;
- (d) the Trust shall not incur or assume any indebtedness if, after giving effect to the incurrence or assumption of such indebtedness, the total indebtedness of the Trust would be more than 70% of Gross Book Value;
- (e) the Trust shall not directly or indirectly guarantee any indebtedness or liabilities of any person unless such guarantee: (i) is given in connection with or incidental to an investment that is otherwise permitted by the Trust's investment guidelines and operating policies; and (ii) (A) would not disqualify the Trust as a "mutual fund trust" within the

meaning of the Tax Act, and (B) would not result in the Trust losing any status under the Tax Act that is otherwise beneficial to the Trust and its Unitholders;

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

References in the investment guidelines and operating policies in Sections 6.1 and 6.2 to investment in real property are deemed to include direct and indirect investments in joint ventures, partnerships and other arrangements that invest in real property.

6.3 Amendments to Investment Guidelines and Operating Policies

All of the investment guidelines set out in Section 6.1 and the operating policies contained in Subsections 6.2(a), 6.2(b) and 6.2(e) may be amended only with the approval of not less than two-thirds of the votes cast by unitholders at a meeting called for such purpose (or a written resolution signed by unitholders representing at least two-thirds of the outstanding Trust Units). The remaining operating policies may be amended with the approval of a majority of the votes cast by unitholders at a meeting called for such purpose (or a written resolution signed by unitholders representing at least a majority of the outstanding Trust Units).

6.4 Tax Status

The Trustees shall cause the Trust to elect, in its return of income for the first taxation year of the Trust, pursuant to Subsection 132(6.1) of the Tax Act, that the Trust be deemed to be a "mutual fund trust" for the purposes of the Tax Act, provided that prior to filing such return of income the Trust has sufficient Unitholders so as to be entitled to make such election and has otherwise complied with the requirements thereof. Notwithstanding anything else contained in this Declaration of Trust, the Trust shall not make any investment, take any action or omit to take any action that would result in the Trust failing or ceasing to qualify as a "mutual fund trust" and a "real estate investment trust" within the meaning of the Tax Act (effective the date it was established and thereafter).

6.5 Application of Investment Guidelines and Operating Policies

With respect to the investment guidelines and operating policies contained in Sections 6.1 and 6.2 and where any maximum or minimum percentage limitation is specified in any of the guidelines and policies therein contained, such guidelines and policies shall, unless otherwise specified, be applied on the basis of the relevant amounts calculated immediately after the making of such investment or the taking of such action. Any subsequent change relative to any percentage limitation, which results from a subsequent change in the Gross Book Value, will not require divestiture of any investment.

6.6 Regulatory Matters

If at any time a government or regulatory authority having jurisdiction over the Trust or any property of the Trust shall enact any law, regulation or requirement which is in conflict with any investment guideline or operating policy of the Trust then in force (other than Subsection 6.1(b)), such guideline or operating policy in conflict shall, if the Trustees on the advice of legal counsel to the Trust so resolve, be deemed to have been amended to the extent necessary to resolve any such conflict and, notwithstanding anything to the contrary herein contained, any such resolution of the Trustees shall not require the prior approval of Unitholders.

ARTICLE VII UNITS

7.1 Units

- (a) The interests in the Trust shall be divided into ~~two~~three classes, described and designated as "Trust Units"~~and~~, "Special Voting Units", and "Special Units" respectively, which shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein. Each Trust Unit, Special Voting 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 Trust Units, Special Voting Units and Special~~Voting~~ Units registered in the name of the Trust Unitholder, Special Voting Unitholder, and Special~~Voting~~ Unitholder, respectively.
- (b) The interest of each unitholder shall be determined by the number of Units registered in the name of the unitholder. The number of Trust Units and Special Voting Units that the Trust may issue shall be unlimited. The aggregate number of Special Units which is authorized and may be issued hereunder is one-hundred (100).
- (c) The issued and outstanding Trust Units~~and~~, Special Voting Units and Special Units may be subdivided or consolidated from time to time by the Trustees without notice to or approval of the unitholders.

7.2 Special Voting Units

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

7.3 Trust Units and Special Units

(a) ~~7.3~~ Trust Units

Each Trust Unit shall represent a proportionate, undivided beneficial ownership interest in the Trust and shall confer the right to one vote at any meeting of unitholders and to participate pro rata in any distributions by the Trust, whether of net income, net realized capital gains or other amounts, and, in the event of termination or winding-up of the Trust, in the net assets of the Trust remaining after satisfaction of all liabilities. No Trust Unit shall have any preference or priority over any other. Trust Units shall rank

among themselves equally and ratably without discrimination, preference or priority. Trust Units will be fully paid and non-assessable when issued (unless issued on an installment receipt basis) and are transferable. Trust Units are redeemable at the holder's option, as described under Section 7.14 below.

(b) Special Units

The Special Units shall have the following attributes:

- (i) All Special Units shall rank among themselves equally and rateably without discrimination, preference or priority.**
- (ii) Notwithstanding anything to the contrary in Article XI, the holders of Special Units, in priority to Trust Units, shall be entitled to receive an annual preferential distribution equal to \$1000 per Special Unit. No distributions shall at any time be declared and paid on or set apart for payment on the Trust Units in respect unless and until the full amount of any distributions payable on the Special Units have been paid or funds have been set aside for the payment thereof.**
- (iii) A holder of Special Units shall not be entitled to vote at any meeting of Unitholders or in respect of any written resolution of Unitholders.**
- (iv) The Trust shall be entitled to redeem all or any portion of the outstanding Special Units at an amount per Special Unit (the "Special Unit Redemption Amount") equal to the redemption value described in the definition of "Special Unit" in the Plan of Arrangement, attached as Appendix E to the Information Circular dated October 18, 2024 (the "Plan of Arrangement").**
- (v) A holder of Special Units shall be entitled to require the Trust to redeem, at any time or from time to time, on demand, all or any portion of the Special Units held for the Special Unit Redemption Amount for each Special Unit. A Special Unit will be redeemed in accordance with the provisions of Section 7.14, *mutatis mutandis*, except that the Redemption Price will be the Special Unit Redemption Amount and Section 7.14(d) shall not be applicable.**
- (vi) Notwithstanding anything to the contrary in Article XV, in the event of the liquidation, dissolution or winding up of the Trust, the holders of the Special Units shall be entitled to receive from the assets of the Trust a sum equivalent to the Special Unit Redemption Amount for each Special Unit held before any amount shall be paid or any property or assets of the Trust shall be distributed to holders Trust Units. After payment as above to the holders of the Special Units, such holders shall not be entitled to share in any further distribution of the assets of the Trust in respect of their Special Units.**
- (vii) Only a Resident may hold a Special Unit.**

7.4 Consideration for Units

No Units shall be issued other than as fully paid and non-assessable. A Unit shall not be fully paid until the consideration therefor has been received in full by or on behalf of the Trust. The consideration for any Unit shall be paid in money or in property or in past services that are not less in value than the fair equivalent of the money that the Trust would have received if the Unit had been issued for money. In determining whether property or past services are the fair equivalent of consideration paid in money, the Trustees may

take into account reasonable charges and expenses of organization and reorganization and payments for property and past services reasonably expected to benefit the Trust.

7.5 Pre-Emptive Rights

Subject to any binding agreement entered into by the Trust, no person shall be entitled, as a matter of right, to subscribe for or purchase any Units of the Trust. There are no pre-emptive rights attaching to the Units.

7.6 Fractional Units

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

7.7 Allotment and Issue

The Trustees may allot and issue Units at such time or times and in such manner (including, without limitation, pursuant to any plan from time to time in effect relating to reinvestment by Unitholders of distributions of the Trust in Units and as consideration for the acquisition of new properties or assets, at a price or for such consideration as determined by the Trustees) and for such consideration and to such person, persons or class of persons as the Trustees in their sole discretion shall determine, except that (i) Special Voting Units may only be issued in connection with or in relation to Exchangeable Securities for the purpose of providing voting rights to the holders of such securities with respect to the Trust, and (ii) Special Units may only be issued as part of the Arrangement provided that all the issued and outstanding Special Units issued under the Arrangement are also cancelled as part of the Arrangement. In the event that Units are issued in whole or in part for a consideration other than money, the resolution of the Trustees allotting and issuing such Units shall express the fair equivalent in money of the other consideration received. The price or value of the consideration for which Units may be issued will be determined by the Trustees in their sole discretion, generally in consultation with investment dealers or brokers who may act as underwriters in connection with offerings of Units.

7.8 Rights, Warrants and Options

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

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

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

7.10 Transferability

The Trust Units are freely transferable and, except as stipulated in Section 7.12, the Trustees shall not impose any restriction on the transfer of Trust Units by any Trust Unitholder except with the consent of such Trust Unitholder. Special Voting Units will not be transferable separately from the Exchangeable Securities to which they are attached and will be automatically transferred upon the transfer of such securities.

7.11 Transfer of Units

- (a) Subject to the provisions of this Article VII, the Units shall be for all purposes of the Trust and this Declaration of Trust, personal and moveable property, and the Units shall be fully transferable without charge as between persons, but no transfer of Units shall be effective as against the Trustees or shall be in any way binding upon the Trustees until the transfer has been recorded on the Register maintained by the Trustees, the Trust or the Transfer Agent. No transfer of a Unit shall be recognized unless such transfer is of a whole Unit.
- (b) Subject to the provisions of this Article VII, 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 or branch transfer registers 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.
- (c) Unit Certificates representing any number of Trust Units may be exchanged without charge for Unit Certificates representing an equivalent number of Trust Units in the aggregate. Any exchange of Unit Certificates may be made at the offices of the Trust or the Transfer Agent where registers are maintained for Unit Certificates pursuant to the provisions of this Article VII. Any Unit Certificates tendered for exchange shall be surrendered to the Trustees or appropriate Transfer Agent and then shall be cancelled.

7.12 Non-Resident Ownership Constraint

At no time may Non-Residents be the beneficial owners of more than 49% of the Units or more than 49% of the convertible debentures of the Trust then outstanding and the Trustees will inform the Transfer Agent and registrar of this restriction and shall take such actions as may reasonably be undertaken on behalf of the Trust to cause the Trust to maintain its mutual fund trust status. The Trustees shall monitor the level of beneficial ownership of Units by Non-Residents using available information (including reports showing geographic beneficial ownership of Units) at intervals which are reasonable in the circumstances. The Trustees may also require declarations as to the jurisdictions in which beneficial owners of Units are resident for the purposes of the Tax Act. If the Trustees become aware, as a result of requiring such

declarations as to beneficial ownership or otherwise, that the beneficial owners of 49% of the Units or the convertible debentures of the Trust then outstanding are, or may be, Non-Residents or that such a situation is imminent, the Trustees may make a public announcement thereof and the Transfer Agent shall not accept a subscription for Units from or issue Units to a person unless the person provides a declaration that the person is not a Non-Resident.

If, notwithstanding the foregoing, the Trustees determine that more than 49% of the Units or the Convertible Debentures are held by Non-Residents, the Trustees may send a notice to Non-Resident holders of Units, chosen in inverse order to the order of acquisition or registration or in such other manner as the Trustees may consider equitable and practicable, requiring them to sell their Units or a portion thereof within a specified period of not less than 60 days. If the Unitholders receiving such notice have not sold the specified number of Units or provided the Trustees with satisfactory evidence that they are not Non-Residents within such period, the Trustees may, on behalf of such Unitholders sell such Units without further notice and, in the interim, must suspend the voting and distribution rights attached to such Units. Upon such sale the affected holders shall cease to be holders of Units and their rights will be limited to receiving the net proceeds of sale, subject to the right to receive payment of any distribution declared by the Trustees which is unpaid and owing to such Unitholders. The Trustees shall have no liability for the amount received provided that they act in good faith.

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

For greater certainty, the Trust may sell Units in accordance with the terms hereof despite the fact that the Trust does not possess the Unit Certificate or Unit Certificates, if any, representing the Units at the time of the sale. Where, in accordance with this Section 7.12, Units are sold by the Trust without possession of the Unit Certificate or Unit Certificates, if any, representing the same and, after the sale, a person establishes that it is a *bona fide* purchaser without notice of the Units from the Unitholder, then, subject to applicable law:

- (a) the Trust shall be entitled to treat the Units so purchased by the *bona fide* purchaser as validly issued and outstanding Units in addition to the Units sold by the Trust; and
- (b) notwithstanding any other provisions of this Declaration of Trust, the Trust is entitled to the amount paid by the *bona fide* purchaser made with respect to such sale and shall add such amount 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 7.12. The Trustees shall make all determinations necessary for the administration of the provisions of this Section 7.12 and, without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a contravention of the non-resident ownership restriction has occurred or will occur, the Trustees shall make a determination with respect to the matter. Any such determination shall be conclusive, final and binding except to the extent modified by any subsequent determination by the Trustees. Notwithstanding the foregoing, the Trustees may delegate, in whole or in part, their power to make a determination to any officer of the Trust.

If the Tax Act is (or is proposed to be) amended in a manner which places new restrictions on Non-Residents beneficially owning Units, the Trustees, acting reasonably, may take any action they consider necessary to ensure, to the extent practicable, that the Trust maintain its mutual fund trust status.

Notwithstanding the foregoing, the Trustees may take into consideration in complying with this Section 7.12, any Exchangeable Securities owned by Non-Residents.

7.13 Non-Certificated Inventory System

- (a) The provisions of this Section 7.13 shall not in any way alter the nature of Units or the relationships of a Unitholder to the Trustees and of one Unitholder to another but are intended only to facilitate the recording of all transactions in respect of Trust 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 Trust Units held through CDS, or its nominee, will be made electronically through the NCI system of CDS. Units held in CDS will be purchased, transferred and surrendered for redemption through a CDS Participant. All rights of beneficial Trust Unitholders who hold Trust Units in CDS must be exercised through, and all payments or other property to which such beneficial Trust Unitholders are entitled will be made or delivered by CDS or the CDS Participant through which the beneficial Trust Unitholder holds such Trust Units. A beneficial holder of a Trust 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 Trust Units, nor, to the extent applicable, will such beneficial Trust 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 Trust 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 Trust 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 Trust Units, and sales of interests in the Trust Units can only be completed through CDS Participants.
- (d) Trust Units may be issued in fully registered form to holders or their nominees, if any, who purchase the Trust Units pursuant to a private placement of Trust Units made in reliance upon Rule 144A adopted under the United States Securities Act of 1933, and to transferees thereof in the United States who purchase such Trust Units in reliance upon Rule 144A. Likewise, any Trust Units transferred to a transferee within the United States or outside the United States to a "U.S. Person" (within the meaning of Regulation S) may be evidenced in definitive certificates representing any such Trust Units unless the Trust otherwise agrees that such Trust Units need not be evidenced in definitive certificates. If any such Trust Units represented by definitive certificates are subsequently traded into Canada, or otherwise outside the United States in compliance with Regulation S, the Transfer Agent will electronically deliver such Trust Units registered to CDS or its nominee, and CDS will credit interests in such Trust Units to the accounts of the CDS Participants as directed by the Transfer Agent.
- (e) Except as noted in the foregoing paragraph, Trust Units will be issued in fully registered form to holders or their nominees, other than CDS or its nominee, only if: (i) the Trust is required to do so by applicable law; (ii) the depository system of CDS ceases to exist; (iii) the Trust determines that CDS is no longer willing, able or qualified to discharge properly its responsibility as depository and the Trust is unable to locate a qualified successor; (iv) the Trust at its option elects to prepare and deliver definitive certificates representing the Trust Units; or (v) the Trust at its option elects to terminate the NCI system in respect of the Trust Units through CDS.

- (f) All references herein to actions by, notices given or payments made to Trust Unitholders shall, where such Trust 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' rules and procedures. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of Trust Unitholders evidencing a specified percentage of the aggregate Units outstanding, such direction or consent may be given by Trust Unitholders acting through CDS and the CDS Participants owning Trust Units evidencing the requisite percentage of the Units, subject to the voting rights of holders of Special Voting Units. The rights of a Trust Unitholder whose Trust 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 Trust 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 Trust Unitholders and such dealing with CDS shall constitute satisfaction or performance, as applicable, towards their respective obligations hereunder.
- (g) For so long as Trust Units are held through CDS, if any notice or other communication is required to be given to Trust Unitholders, the Trustees and the Transfer Agent will give all such notices and communications to CDS.
- (h) If CDS resigns or is removed from its responsibilities as depository and the Trustees are unable or do not wish to locate a qualified successor, CDS shall surrender the Trust Units held by it to the Transfer Agent with instructions from CDS for registration of Trust 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 Trust Units then outstanding in the form of definitive Unit Certificates representing such Trust Units.

7.14 Redemption of Trust Units

- (a) Each Trust Unitholder shall be entitled to require the Trust to redeem at any time or from time to time at the demand of the Trust Unitholder all or any part of the Trust Units registered in the name of the Trust Unitholder at the prices determined and payable in accordance with the conditions hereinafter provided.
- (b)
 - (i) To exercise a Trust Unitholder's right to require redemption under this Section 7.14, a duly completed and properly executed notice requiring the Trust to redeem Trust Units, in a form reasonably acceptable to the Trustees, together with written instructions as to the number of Trust 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 Trust Unitholder not otherwise holding a registered Trust Unit certificate that wishes to exercise the redemption right will be required to obtain a redemption notice form from the Trust Unitholder's investment dealer who will be required to deliver the completed redemption notice form to the Trust and to CDS. No form or manner of completion or execution shall be sufficient unless the same is in all respects 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 notice to redeem Trust Units, the Trust Unitholder shall thereafter cease to have any rights with respect to the Trust Units tendered for redemption (other than to receive the redemption payment therefor) including the right to receive any distributions thereon which are declared payable to the Trust Unitholders of record on a date which is subsequent to the day of receipt by the Trust of such notice. Trust Units shall be

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

- (c) (i) Upon receipt by the Transfer Agent and the Trust of the notice to redeem Trust Units in accordance with this Section 7.14, the holder of the Trust Units tendered for redemption shall be entitled to receive a price per Trust Unit (the "**Redemption Price**") equal to the lesser of:
 - (A) 90% of the "market price" of the Trust Units calculated on the date (the "**Redemption Date**") on which the Trust Units were surrendered for redemption; and
 - (B) 100% of the "closing market price" on the principal market on which the Trust Units are listed for trading, on the Redemption Date.

For the purposes of this calculation, "market price" as at a specified date will be:

- (C) an amount equal to the weighted average trading price of a Trust Unit on the principal exchange or market on which the Trust Units are listed or quoted for trading during the period of 10 consecutive trading days ending on such date;
- (D) an amount equal to the weighted average of the closing market prices of a Trust Unit on the principal exchange or market on which the Trust Units are listed or quoted for trading during the period of 10 consecutive trading days ending on such date, if the applicable exchange or market does not provide information necessary to compute a weighted average trading price; or
- (E) if there was trading on the applicable exchange or market for fewer than five of the 10 trading days, an amount equal to the simple average of the following prices established for each of the 10 consecutive trading days ending on such date: the simple average of the last bid and last asking price of the Trust Units for each day on which there was no trading; the closing price of the Trust Units for each day that there was trading if the exchange or market provides a closing price; and the simple average of the highest and lowest prices of the Trust Units for each day that there was trading, if the market provides only the highest and lowest prices of Trust Units traded on a particular day.

The "closing market price" of a Trust Unit for the purpose of the foregoing calculations, as at any date will be:

- (F) an amount equal to the weighted average trading price of a Trust Unit on the principal exchange or market on which the Trust Units are listed or quoted for trading on the specified date and the principal exchange or market provides information necessary to compute a weighted average trading price of the Trust Units on the specified date;
- (G) an amount equal to the closing price of a Trust Unit on the principal market or exchange if there was a trade on the specified date and the principal exchange or market provides only a closing price of the Trust Units on the specified date;

- (H) an amount equal to the simple average of the highest and lowest prices of the Trust Units on the principal market or exchange, if there was trading on the specified date and the principal exchange or market provides only the highest and lowest trading prices of the Trust Units on the specified date; or
- (I) the simple average of the last bid and last asking prices of the Trust Units on the principal market or exchange, if there was no trading on the specified date.

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

- (ii) Subject to Subsections 7.14(d) and 7.14(e), the Redemption Price payable in respect of the Trust Units tendered for redemption during any calendar month shall be paid by cheque, drawn on a Canadian chartered bank or a trust company in lawful money of Canada, payable at par to, or to the order of, the Trust Unitholder who exercised the right of redemption within 30 days after the end of the calendar month in which the Trust Units were tendered for redemption. Payments made by the Trust of the Redemption Price are conclusively deemed to have been made upon the mailing of a cheque in a postage prepaid envelope addressed to the former Trust Unitholder unless such cheque is dishonoured upon presentment. Upon such payment, the Trust shall be discharged from all liability to the former Trust Unitholder in respect of the Trust Units so redeemed.
- (d) Paragraph 7.14(c)(ii) shall not be applicable to Trust Units tendered for redemption by a Trust Unitholder, if:
 - (i) the total amount payable by the Trust pursuant to Subsection 7.14(c) in respect of such Trust Units and all other Trust Units tendered for redemption in the same calendar month exceeds \$50,000 (the "**Monthly Limit**") provided that the Trustees may, in their sole discretion, waive such limitation in respect of all Trust Units tendered for redemption in any calendar month and, in the absence of such a waiver, Trust Units tendered for redemption in any calendar month in which the total amount payable by the Trust pursuant to Paragraph 7.15(c)(ii) exceeds the Monthly Limit will be redeemed for cash pursuant to Paragraph 7.15(c)(ii) and, subject to any applicable regulatory approvals, by an issuance under Section 7.14(e), on a pro rata basis;
 - (ii) on the date the Trust Units are tendered for redemption, the outstanding Trust Units are not listed for trading on the TSX or traded or quoted on any stock exchange or market which the Trustees consider, in their sole discretion, provides representative fair market value prices for the Trust Units;
 - (iii) the normal trading of the outstanding Trust Units is suspended or halted on any stock exchange on which the Trust Units are listed for trading, or if not so listed, on any market on which the Trust Units are quoted for trading, on the Redemption Date for such Trust Units or for more than five trading days during the 10 day trading period commencing immediately before the Redemption Date for such Trust Units; or

- (iv) the redemption of the Trust Units will result in the delisting of the Trust Units from the principal stock exchange on which the Trust Units are listed.
- (e) To the extent that Paragraph 7.14(c)(ii) is not applicable to all of the Trust Units tendered for redemption by a Trust Unitholder pursuant to Subsection 7.14(d), the balance of the Redemption Price per Trust Unit specified in Subsection 7.14(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 the issuance to such Trust Unitholder of Redemption Notes. Upon such payment, together with any cash payable to the Trust Unitholder pursuant to Paragraph 7.14(c)(ii), the Trust shall be discharged from all liability to such former Trust Unitholder and any party having a security interest in respect of the Trust Units so redeemed. In the event of the issuance of Redemption Notes, each Redemption Note so issued to the redeeming holder of Trust Units shall be in the principal amount of \$100 or such other amount as may be determined by the Trustees. No fractional Redemption Notes shall be issued and where the number of Redemption Notes to be received upon redemption by a holder of Trust 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 Trust Unitholder pursuant to this Article VII all amounts required by law to be so withheld.
- (f) Some or all of the Trust income and the net realized capital gains may, for purposes of computing the Trust income and the net realized capital gains under the Tax Act or other tax legislation be treated as having been paid in the year by the Trust to the Trust Unitholders redeeming Trust Units in such year and, to the extent that the amount thereof so treated as has been designated as taxable capital gains or income to such Trust Unitholders, the holder's redemption proceeds shall be reduced accordingly. Any such amounts shall be determined at the discretion of the Trustees; however, in all cases, a redeeming Trust Unitholder will be treated as having been paid an amount to which the holder of the Trust Units redeemed would be entitled to receive.
- (g) All Trust Units redeemed under this Section 7.14 shall be cancelled and such Trust Units shall no longer be outstanding and shall not be reissued.
- (h) The Trustees shall be entitled to make all applicable withholdings on payments made in this Section 7.14 as are required by applicable tax laws.

7.15 Certificate Fee

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

7.16 Form of Unit Certificate

The form of certificate representing Trust 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.

7.17 Unit Certificates

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

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

7.18 Contents of Unit Certificates

- (a) Until otherwise determined by the Trustees, each Unit Certificate shall legibly set forth on the face thereof, inter alia, the following:
- (i) the name of the Trust and the words "A trust governed under the laws of the Province of Ontario governed by an Amended and Restated Declaration of Trust made the 27th day of November, 2015, as amended from time to time" or words of like effect;
 - (ii) the name of the person to whom the Unit Certificate is issued as Unitholder;
 - (iii) the number of Units represented thereby and whether or not the Units represented thereby are fully paid;
 - (iv) that the Units represented thereby are transferable;
 - (v) the words "The Units represented by this certificate are issued upon the terms and subject to the conditions of the Declaration of Trust, which Declaration of Trust is binding upon all holders of Units and, by acceptance of this certificate, the holder assents to the terms and conditions of the Declaration of Trust. A copy of the Declaration of Trust, pursuant to which this certificate and the Units represented thereby are issued, may be obtained by a Unitholder on demand and without fee from the head office of the Trust" or words of like effect; and
 - (vi) the words "For information as to personal liability of a Unitholder, see the reverse side of this certificate" or words of like effect.
- (b) Until otherwise determined by the Trustees, each such certificate shall legibly set forth on the reverse side thereof, inter alia, the following:
- (i) the words "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.

7.19 Register of Unitholders

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

7.20 Successors in Interest to Unitholders

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

7.21 Units Held Jointly or in Fiduciary Capacity

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

7.22 Performance of Trusts

None of the Trustees of the Trust, the officers of the Trust, the unitholders or the Transfer Agent or other agent of the Trust or the Trustees shall have a duty to inquire into any claim that a transfer of a Unit or other security of the Trust was or would be wrongful or that a particular adverse person is the owner of or has an interest in the Unit or other security or any other adverse claim, or be bound to see to the performance of any trust, express, implied or constructive, or of any charge, pledge or equity to which any of the Units or other securities or any interest therein are or may be subject, or to ascertain or inquire whether any sale or transfer of any such Units or other securities or interest therein by any such unitholder or holder of such security or his personal representatives is authorized by such trust, charge, pledge or

equity, or to recognize any person as having any interest therein, except for the person recorded as unitholder.

7.23 Lost Unit Certificates

In the event that any Unit Certificate is lost, stolen, destroyed or mutilated, the Trustees may authorize the issuance of a new Unit Certificate for the same number of Trust 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 property of the Trust 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.

7.24 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 property of the Trust, 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.

7.25 Unclaimed Payments

In the event that the Trustees hold any amounts to be paid to Trust Unitholders under Article XI 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.

7.26 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.

7.27 Take-Over Bids

- (a) If within 120 days after the date of a take-over bid the bid is accepted by the holders of not less than 90% of the Units, calculated on a fully diluted basis, other than Units held at the date of the take-over bid by or on behalf of the offeror or an affiliate or associate of

the offeror, the offeror is entitled, on complying with this Section 7.27, 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 take-over bid by or on behalf of the offeror or an affiliate or associate of the offeror;
 - (ii) the offeror is bound to take up and pay for or has taken up and paid for the Units of the offerees who accepted the take-over bid;
 - (iii) a dissenting offeree is required to elect:
 - (A) to transfer his Units to the offeror on the terms on which the offeror acquired the Units of the offerees who accepted the takeover bid, or
 - (B) to demand payment of the fair value of his Units in accordance with Subsections 7.27(h) to 7.27(q) by notifying the offeror within 20 days after he receives the offeror's notice;
 - (iv) a dissenting offeree who does not notify the offeror in accordance with Subparagraph 7.27(b)(iii)(B) is deemed to have elected to transfer his Units to the offeror on the same terms that the offeror acquired the Units from the offerees who accepted the take-over bid; and
 - (v) a dissenting offeree must send his Units to which the take-over bid relates to the Trust within 20 days after he receives the offeror's notice.
- (c) Concurrently with sending the offeror's notice under Subsection 7.27(b), the offeror shall send to the Trust a notice of adverse claim disclosing the name and address of the offeror and the name of the dissenting offeree with respect to each Unit held by a dissenting offeree.
- (d) A dissenting offeree to whom an offeror's notice is sent under Subsection 7.27(b) shall, within 20 days after he receives that notice, send his Unit Certificates to the Trust.
- (e) Within 20 days after the offeror sends an offeror's notice under Subsection 7.27(b), the offeror shall pay or transfer to the Trust the amount of money or other consideration that the offeror would have had to pay or transfer to a dissenting offeree if the dissenting offeree had elected to accept the take-over bid under Subparagraph 7.27(b)(iii)(A).
- (f) The Trust is deemed to hold in trust for the dissenting offeree the money or other consideration it receives under Subsection 7.27(e) and the Trust shall deposit the money in a separate account in a bank or other body corporate any deposits of which are insured by the Canada Deposit Insurance Corporation or guaranteed by the Québec Deposit Insurance Board, and shall place the other consideration in the custody of a bank or such other body corporate.

- (g) Within 30 days after the offeror sends an offeror's notice under Subsection 7.27(b), the Trust shall:
 - (i) issue to the offeror a Unit Certificate in respect of the Units that were held by dissenting offerees;
 - (ii) give to each dissenting offeree who elects to accept the take-over bid terms under Subparagraph 7.27(b)(iii)(A) and who sends his Unit Certificates, as required under Subsection 7.27(d), the money or other consideration to which he is entitled, disregarding fractional Units, if any, which may be paid for in money; and
 - (iii) send to each dissenting offeree who has not sent his Unit Certificates, as required under Subsection 7.27(d) a notice stating that:
 - (A) his Units have been cancelled,
 - (B) the Trust or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his Units, and
 - (C) the Trust will, subject to Subsections 7.27(h) to 7.27(q), send that money or other consideration to him forthwith after receiving his Units.
- (h) If a dissenting offeree has elected to demand payment of the fair value of his Units under Subparagraph 7.27(b)(iii)(B), the offeror may, within 20 days after it has paid the money or transferred the other consideration, under Subsection 7.27(e), apply to a court to fix the fair value of the Units of that dissenting offeree.
- (i) If an offeror fails to apply to a court under Subsection 7.27(h), a dissenting offeree may apply to a court for the same purpose within a further period of 20 days.
- (j) Where no application is made to a court under Subsection 7.27(i) within the period set out in that subsection, a dissenting offeree is deemed to have elected to transfer his Units to the offeror on the same terms that the offeror acquired the Units from the offerees who accepted the take-over bid.
- (k) An application under Subsections 7.27(h) or 7.27(i) shall be made to a court having jurisdiction in the place where the Trust has its registered office.
- (l) A dissenting offeree is not required to give security for costs in an application made under Subsections 7.27(h) or 7.27(i).
- (m) On an application under Subsections 7.27(h) or 7.27(i):
 - (i) all dissenting offerees referred to in Subparagraph 7.27(b)(iii)(B) whose Units have not been acquired by the offeror shall be joined as parties and shall be bound by the decision of the court; and
 - (ii) the offeror shall notify each affected dissenting offeree of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel.

- (n) On an application to a court under Subsections 7.27(h) or 7.27(i) the court may determine whether any other person is a dissenting offeree who should be joined as a party, and the court shall then fix a fair value for the Units of all dissenting offerees.
- (o) A court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the Units of a dissenting offeree.
- (p) The final order of the court shall be made against the offeror in favour of each dissenting offeree and for the amount for his Units as fixed by the court.
- (q) In connection with proceedings under this Section 7.27, a court may make any order it thinks fit and, without limiting the generality of the foregoing, it may:
 - (i) fix the amount of money or other consideration that is required to be held in trust under Subsection 7.27(f);
 - (ii) order that money or other consideration be held in trust by a person other than the Trust; and
 - (iii) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date he sends or delivers his Unit Certificates under Subsection 7.27(d) until the date of payment.
- (r) Where an offeror is entitled to acquire Units held by a dissenting offeree pursuant to Subsection 7.27(b) and the offeror wishes to exercise such right, the offeror shall also deliver an offer (the "**Exchange Offer**") to the Trustees, at the same time that an offeror's notice is delivered pursuant to Subsection 7.27(b), addressed to each holder of Exchangeable Securities to acquire all Trust Units issued to such holder by the Trust following the exchange of the holder's Exchangeable Securities for Trust Units. The Exchange Offer shall be made on the same terms as the offeror, if accepted by a holder of Exchangeable Securities, acquired the Trust Units of the Trust Unitholders who accepted the take-over bid and the exchange by the holder of the Exchangeable Securities and the acquisition by the offeror of the Trust Units issuable upon exchange thereof shall occur within 30 days of delivery of the Exchange Offer to the Trustees. The Trustees shall deliver the Exchange Offer to each holder of Exchangeable Securities forthwith upon receipt, if any such holders exist.
- (s) In the event that a non-exempt take-over bid from a person acting at arm's length to holders of Exchangeable Securities (or any affiliate or associate thereof) is made for Trust Units, unless the take-over bid is structured to permit holders of Exchangeable Securities to both exchange and tender conditional on take-up, then, from and after the first take-up of Trust Units under the said take-over bid (provided that not less than 25% of the Trust Units other than Trust Units held at the date of the take-over bid by the offeror or associates or affiliates of the offeror are so taken up) the terms and conditions of the Exchangeable Securities will be amended such that the exchange ratio shall be varied to equal 110% of the exchange ratio then in effect (such that on conversion, exercise or exchange the holder shall receive 1.1 Trust Units for each Trust Unit that the holder would otherwise have received). For greater certainty, notwithstanding any adjustment contemplated by this section, the holders of such Exchangeable Securities shall not be entitled to any adjustment to their entitlement to distributions until such time as such Exchangeable Securities are exchanged for Trust Units.

7.28 Renouncing Beneficial Interests in the Trust Held by Special Unitholders

A Special Unitholder that is a direct or indirect Subsidiary of the Trust may renounce the interest that such Special Unitholder has in the Trust ("Renunciation") provided that such Special Unitholder has provided (or is deemed to have provided) notice to the Trustees in the form prescribed herein (a "Renunciation Notice"). The Renunciation Notice must indicate: (i) the holder of the Special Units; (ii) the number of Special Units held; (iii) the effective date of the Renunciation; (iv) an acknowledgement that (A) the holder is irrevocably surrendering, disclaiming, releasing and renouncing all rights and benefits in the Trust (income, capital or otherwise) from and after the effective date of the Renunciation, (B) the Renunciation is not in exchange for any consideration from the Trust, and (C) the Renunciation is not in favour of any other person. Provided that a Renunciation Notice has been received (or is deemed to have been received) by the Trustees, the Trustees from and after the effective date specified in the Renunciation Notice shall accept the Renunciation and (i) shall remove such former Special Unitholder as a beneficiary of the Trust, and (ii) cancel such Special Units specified in the Renunciation Notice for no consideration.

ARTICLE VIII MEETINGS OF UNITHOLDERS

8.1 Annual Meeting

There shall be an annual meeting of the unitholders, commencing in 2016 (for the Trust's 2015 fiscal year), at such time and place in Canada and for such other purposes as the Trustees may prescribe for the purpose of electing Trustees, appointing or removing the Auditors of the Trust and transacting such other business as the Trustees may determine or as may properly be brought before the meeting. The annual meeting of unitholders shall be held after delivery to the unitholders of the annual report referred to in Section 17.8 and, in any event, within 270 days after the end of each Fiscal Year.

8.2 Other Meetings

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

- (a) a record date for a meeting of the unitholders has been fixed and notice thereof has been given to each stock exchange in Canada on which the Units are listed for trading;
- (b) the Trustees have called a meeting of the unitholders and have given notice thereof pursuant to Section 8.3; 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 the matter covered by the 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 8.2 are being abused to secure publicity.

Subject to the foregoing, if the Trustees do not within 21 days after receiving the requisition call a meeting, any unitholder who signed the requisition may call the meeting in accordance with the provisions of Section 8.3 and Section 8.9 and the Trustees' Regulations, *mutatis mutandis*. If there shall be no Trustees, the officers of the Trust shall promptly call a special meeting of the unitholders for the election of successor Trustees. The phrase "meeting of the unitholders" wherever it appears in this Declaration of Trust shall mean and include both an annual meeting and any other meeting of unitholders.

8.3 Notice of Meeting of Unitholders

- (a) Notice of all meetings of the unitholders shall be mailed or delivered by the Trustees to each Trustee, unitholder, and to the Auditors of the Trust not less than 21 days nor more than 60 days or within such other number of days as required by law or 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 *Canada Business Corporations Act* in connection with a meeting of shareholders. Notice of any meeting of the unitholders shall state the purposes of the meeting. Any adjourned meeting, other than a meeting adjourned for lack of a quorum under Section 8.6, may be held as adjourned without further notice. Notwithstanding the foregoing, a meeting of unitholders may be held at any time without notice if all the unitholders are present or represented thereat or those not so present or represented have waived notice. Any unitholder (or a duly appointed proxy of a unitholder) may waive any notice required to be given under the provisions of this Section 8.3, 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.
- (b) For certainty and notwithstanding any other provision of the Declaration of Trust, the Trust shall be permitted to utilize the "notice and access" delivery procedures set out in National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*, as replaced or amended from time to time, for the purposes of providing notice of a meeting of unitholders and matters related thereto.

8.4 Nominations of Trustees

- (a) Only persons who are nominated in accordance with the following procedures shall be eligible for election as Trustees of the Trust. Nominations of persons for election to the

Board of Trustees may be made at any annual meeting of unitholders, or at any special meeting of unitholders if one of the purposes for which the special meeting was called was the election of Trustees:

- (i) by or at the direction of the Board of Trustees, including pursuant to a notice of meeting;
 - (ii) by or at the direction or request of one or more unitholders pursuant to a requisition of the unitholders made in accordance with this Article VIII; or
 - (iii) by any person (a "**Nominating Unitholder**"): (A) who, at the close of business on the date of the giving of the notice provided for below in this Section 8.4 and on the record date for notice of such meeting, is entered in the Register as a holder of one or more Units carrying the right to vote at such meeting or who beneficially owns Units that are entitled to be voted at such meeting; and (B) who complies with the notice procedures set forth below in this Section 8.4.
- (b) In addition to any other applicable requirements, for a nomination to be made by a Nominating Unitholder, the Nominating Unitholder must have given timely notice thereof to the Trustees in the manner prescribed by this Declaration of Trust. Furthermore, if such notice is made on a day which is a not a Business Day or later than 5:00 p.m. (Toronto Time) on a day which is a Business Day, then such notice shall be deemed to have been made on the subsequent day that is a Business Day.
- (c) To be timely, a Nominating Unitholder's notice to the Trustees must be made:
- (i) in the case of an annual meeting of unitholders, not less than 30 days prior to the date of the annual meeting of unitholders; provided, however, that in the event that the annual meeting of unitholders is to be held on a date that is less than 50 days after the date (the "**Notice Date**") that is the earlier of the date that a notice of meeting is filed for such meeting or the date on which the first public announcement of the date of the annual meeting was made, notice by the Nominating Unitholder may be made not later than the close of business on the 10th day following the Notice Date; and
 - (ii) in the case of a special meeting (which is not also an annual meeting) of unitholders called for the purpose of electing Trustees (whether or not called for other purposes), not later than the close of business on the 15th day following the day that is the earlier of the date that a notice of meeting is filed for such meeting or the date on which the first public announcement of the date of the special meeting of unitholders was made.
- (d) To be in proper written form, a Nominating Unitholder's notice to the Trustees must set forth:
- (i) as to each person whom the Nominating Unitholder proposes to nominate for election as a Trustee: (A) the name, age, business address and residential address of the person; (B) the principal occupation or employment of the person; (C) the class or series and number of Units in the capital of the Trust which are controlled or which are owned beneficially or of record by the person as of the record date for the meeting of unitholders (if such date shall then have been made publicly available and shall have occurred) and as of the date of such notice; and (D) any other information relating to the person that would be required to be disclosed in a dissident's proxy circular in connection with

solicitations of proxies for election of Trustees pursuant to applicable Securities Laws; and

- (ii) as to the Nominating Unitholder giving the notice, any proxy, contract, arrangement, understanding or relationship pursuant to which such Nominating Unitholder has a right to vote any Units and any other information relating to such Nominating Unitholder that would be required to be made in a dissident's proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable Securities Laws.
- (e) No person shall be eligible for election as a Trustee of the Trust unless nominated in accordance with the provisions of this Section 8.4; provided, however, that nothing in this Section 8.4 shall be deemed to preclude discussion by a unitholder (as distinct from the nomination of Trustees) at a meeting of unitholders of any matter in respect of which it would have been entitled to submit to a vote pursuant to the terms and conditions contained in this Declaration of Trust. The chairperson of the meeting shall have the power and duty to determine whether a nomination was made in accordance with the procedures set forth in the foregoing provisions and, if any proposed nomination is not in compliance with such foregoing provisions, to declare that such defective nomination shall be disregarded.
- (f) For purposes of this Section 8.4, "public announcement" shall mean disclosure in a press release reported by a national news service in Canada, or in a document publicly filed by the Trust under its profile on the System of Electronic Document Analysis and Retrieval+ at www.sedar.com [sedarplus.ca](http://www.sedarplus.ca).
- (g) Notwithstanding the foregoing, the Board of Trustees may, in its sole discretion, waive any requirement in this Section 8.4.

8.5 Chairperson

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

8.6 Quorum

A quorum for any meeting of the unitholders shall be two (2) unitholders present in person or represented by proxy, such persons holding or representing by proxy in aggregate not less than 25% of the total number of outstanding Units. 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 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 shall stand adjourned to such day being not less than 14 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 adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

8.7 Voting

Holders of Units may attend and vote at all meetings of the unitholders either in person or by proxy. Each Trust Unit shall entitle the holder of record thereof to one (1) 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 Trust Units that may be obtained upon the exchange of the Exchangeable Security to which such Special Voting Unit is attached.

Any action to be taken by the unitholders shall, except as otherwise required by this Declaration of Trust or by law, be authorized when approved by a majority of the votes cast at a meeting of the unitholders. The 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, on which every person present and entitled to vote shall be entitled to one vote.

At any such meeting, unless a poll is demanded, a declaration by the chairperson that a resolution has been carried unanimously or carried 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.

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 (1) 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.

8.8 Matters on which Unitholders Shall Vote

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

- (a) except as provided in Sections 3.4, 3.6, 3.7, 3.8, 3.11 or 3.12, the appointment, election or removal of Trustees;
- (b) except as provided in Section 17.6, the appointment or removal of Auditors;
- (c) any amendment to the Declaration of Trust (except as provided in Sections 6.3, 13.1 or 13.4);
- (d) the sale or transfer of the assets of the Trust and its subsidiaries as an entirety or substantially as an entirety (other than as a part of an internal reorganization of the assets of the Trust and its subsidiaries as approved by the Trustees);
- (e) the termination of the Trust; or
- (f) the transaction of any other business as the Trustees may determine or as may be properly brought before the meeting.

Nothing in this Section 8.8, however, shall prevent the Trustees from submitting to a vote of unitholders any matter which they deem appropriate. Except with respect to the matters specified in Sections 8.8, 13.2, 13.3, 13.4 and 15.2 or matters submitted to a vote of the unitholders by the Trustees, no vote of the unitholders shall in any way bind the Trustees.

8.9 Record Dates

For the purpose of determining the unitholders who are entitled to receive notice of and vote at any meeting or any adjournment thereof or for the purpose of any other action, the Trustees may from time to time, without notice to the unitholders, close the transfer books for such period, not exceeding 35 days, as the Trustees may determine; or without closing the transfer books the Trustees may fix a date not more than 60

days prior to the date of any meeting of the unitholders or other action as a record date for the determination of unitholders entitled to receive notice of and to vote at such meeting or any adjournment thereof or to be treated as unitholders of record for purposes of such other action, and any unitholder who was a unitholder at the time so fixed shall be entitled to receive notice of and vote at such meeting or any adjournment thereof, even though he has since that date disposed of his Units, and no unitholder becoming such after that date shall be entitled to receive notice of and vote at such meeting or any adjournment thereof or to be treated as a unitholder of record for purposes of such other action. If, in the case of any meeting of unitholders, no record date with respect to voting has been fixed by the Trustees, the record date for voting shall be 5:00 p.m. on the last Business Day before the meeting.

8.10 Proxies

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

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

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

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

8.11 Personal Representatives

If a unitholder is deceased, his personal representative, upon filing with the secretary of the meeting such proof of his appointment as the secretary considers sufficient, shall be entitled to exercise the same voting rights at any meeting of unitholders as the unitholder would have been entitled to exercise if he were living and for the purpose of the meeting shall be considered to be a unitholder. Subject to the provisions of the will of a deceased unitholder, if there is more than one personal representative, the provisions of Section 7.21 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.

8.12 Attendance by Others

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

8.13 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.

8.14 Binding Effect of Resolutions

Every resolution passed at a meeting in accordance with the provisions of this Article VIII shall be binding upon all unitholders, whether present at or absent from the meeting. Subject to Section 8.8, no action taken by unitholders at any meeting of unitholders shall in any way bind the Trust or the Trustees without approval of the Trustees.

8.15 Resolution in Lieu of Meeting

A resolution signed in writing by all of the unitholders entitled to vote on that resolution at a meeting of unitholders is as valid as if it had been passed at a meeting of unitholders.

8.16 Actions by Unitholders

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

8.17 Meaning of "Special Resolution"

- (a) The expression "Special Resolution" when used in this Declaration of Trust means, subject to this Article VIII, a resolution proposed to be passed as a special resolution at a meeting of unitholders (including an adjourned meeting) duly convened for that purpose and held in accordance with the provisions of this Section 8.17 at which at least two unitholders are present in person or represented by proxy and holding or representing by proxy in aggregate not less than ~~40~~²⁵% of the total number of outstanding Units and passed by the affirmative votes of the holders of more than ~~66~~²% of the Units represented at the meeting and voted on a poll upon such resolution.
- (b) Votes on a Special Resolution shall always be given on a poll and no demand for a poll on a Special Resolution shall be necessary.

8.18 Meaning of "Outstanding"

Every Trust Unit, Special Voting Unit and Special ~~Voting~~ Unit issued, certified and delivered hereunder shall be deemed to be outstanding until it shall be cancelled or delivered to the Trustees or Transfer Agent for cancellation provided that:

- (a) when a new certificate has been issued in substitution for a Unit Certificate which has been lost, stolen, mutilated or destroyed, only one of such Unit Certificates shall be counted for the purposes of determining the number of Units outstanding; and

- (b) for the purpose of any provision of this Declaration of Trust entitling holders of outstanding Units to vote, sign consents, requisitions or other instruments or take any action under this Declaration of Trust, Units owned directly or indirectly, legally or equitably, by the Trust or any subsidiary thereof shall be disregarded, except that:
 - (i) for the purpose of determining whether the Trustees shall be protected in relying on any such vote, consent, requisition or other instrument or action only the Units which the Trustees know are so owned shall be so disregarded; and
 - (ii) Units so owned which have been pledged in good faith other than to the Trust or an affiliate thereof shall not be so disregarded if the pledgee shall establish to the satisfaction of the Trustees the pledgee's right to vote such Units in his or her discretion free from the control of the Trust or any affiliate thereof.

ARTICLE IX

MEETINGS OF THE TRUSTEES

9.1 Trustees May Act Without Meeting

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

9.2 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 telephone shall constitute a waiver of notice of such meeting except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened. Each committee of Trustees appointed by the Trustees may adopt its own rules or procedures for the calling, conduct, adjournment and regulation of the meetings of such committees as it sees fit and may amend or repeal such rules or procedures from time to time; provided, however, that the Trustees' Regulations and any such rules or procedures shall not be inconsistent with this Declaration of Trust.

9.3 Place of Meeting

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

9.4 Chair

The chairperson 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.

9.5 Quorum

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

9.6 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.

9.7 Voting at Meetings

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

9.8 Meeting by Telephone or Other Communication Facilities

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

ARTICLE X COMMITTEES OF TRUSTEES

10.1 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. The Trustees shall have the power to appoint, employ or contract with any person for any matter relating to the Trust or its assets or affairs. For greater certainty, the Trustees may delegate to any person (including, without limitation any one or more officers of the Trust) the power to execute any document or enter into any agreement on behalf of the Trust or exercise any discretion or make any amendment in relation thereto. The Trustees may grant or delegate such authority to an advisor or a committee of Trustees as the Trustees may in their sole discretion deem necessary or desirable without regard to whether such authority is normally granted or delegated by

trustees. The Trustees shall have the power to determine the term and compensation of an advisor or any other person whom they may employ or with whom they may contract. The Trustees shall have the power to grant powers of attorney as required in connection with any financing or security relating thereto.

10.2 Investment Committee

The Trustees may appoint an Investment Committee comprised of at least two Trustees. The duties of the Investment Committee may be changed by the Trustees from time to time and shall be subject to such authority as may be delegated from time to time by the Trustees to officers of the Trust without requiring the approval or review by the Trustees or the Investment Committee. The duties of the Investment Committee, if appointed, will be, unless delegated by the Trustees to officers of the Trust, to: (i) review all investment and financing proposals for the Trust and its Subsidiaries; (ii) where the approval of the Trustees is required, recommend to the Trustees approval or rejection of proposed transactions by the Trust (including acquisitions and dispositions of investments by the Trust); (iii) where the approval of the Investment Committee is required, approve or reject proposed transactions by the Trust (including acquisitions and dispositions of investments by the Trust or its Subsidiaries); and (iv) approve all proposed borrowings and the assumption or granting of any mortgage or other security interest in real property by the Trust or its Subsidiaries. Questions arising at any meeting of the Investment Committee shall be decided by a majority of the votes cast. Decisions may be taken by written consent signed by all the members of the Investment Committee upon not less than 48 hours' notice. Where for any reason a member of the Investment Committee is disqualified from voting on or participating in a decision, any other disinterested Independent Trustee not already a member of the Investment Committee may be designated by the Trustees to act as an alternate. Notwithstanding the appointment of the Investment Committee and the granting of any authority thereto, the Trustees may consider and approve or disapprove any matter which the Investment Committee has the authority to consider or approve.

10.3 Audit Committee

The Trustees shall appoint an Audit Committee to consist of not less than three Trustees, all of whom shall be Independent Trustees. 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. The Audit Committee shall be responsible for monitoring the management of the principal risks that could impact the financial reporting of the Trust, monitoring the integrity of the Trust's financial reporting process and system of internal controls regarding financial reporting and accounting compliance, monitoring the independence and performance of the Trust's external auditors and providing an avenue of communication among the external auditors, management, and the Trustees. The auditors of the Trust are entitled to receive notice of every meeting of the Audit Committee and, at the expense of the Trust, to attend and be heard thereat and, if so requested by a member of the Audit Committee, shall attend any meeting of the Audit Committee held during the term of office of the auditors. The auditors of the Trust or a member of the Audit Committee may call a meeting of the Audit Committee on not less than 48 hours' notice, provided that such notice may be may be waived in writing by all members of the Audit Committee either before or after such meeting.

10.4 Governance, ~~Nomination and Succession~~ & ESG Committee

The Trustees shall appoint a Governance, ~~Nomination and Succession~~ & ESG Committee, to consist of at least three Trustees, a majority of whom shall be Independent Trustees. The Governance, ~~Nomination and Succession~~ & ESG Committee shall be responsible for developing and monitoring the Trust's approach to matters of governance. Any member of the Governance, ~~Nomination and Succession~~ & ESG Committee may call a meeting of the Governance, Nomination and Succession Committee on any Business Day on not less than 48 hours' notice, provided that such notice may be may be waived in writing by all members of the Governance & ESG Committee either before or after such meeting.

10.5 Compensation & HR Committee

The Trustees shall appoint a Compensation & HR Committee, to consist of at least three Trustees, a majority of whom shall be Independent Trustees. The Compensation & HR Committee shall be responsible for developing and monitoring the Trust's approach to matters of compensation of Trustees, officers and employees of the Trust. Any member of the Compensation & HR Committee may call a meeting of the Compensation & HR Committee on any Business Day on not less than 48 hours' notice, provided that such notice may be waived in writing by all members of the Compensation & HR Committee either before or after such meeting.

10.6 Additional Committees

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

10.7 Procedure

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

ARTICLE XI DISTRIBUTIONS

11.1 Distributions

The Trust shall have full discretion respecting the timing and the amount of any distributions, including out of the capital of the Trust, provided that any distribution shall be made on a Distribution Date on Trust Units held by Trust Unitholders as of the close of business on the record date for such distribution as is fixed by the Trustees in accordance with Section 8.9 (the "**Distribution Record Date**"). The Trust may pay distributions in specie, in any manner including securities of a Subsidiary of the Trust. The Trustees may adopt a distribution policy pursuant to which distributions will be made by the Trust to Trust Unitholders, and the Trustees may amend or revoke such distribution policy from time to time. In calculating the Trust's income for tax purposes for any taxation year, the present intention of the Trust is to deduct such amounts that the Trustees paid or declared payable to Trust Unitholders and in the taxation year as is necessary to reduce or eliminate the Trust's liability for income tax under Part I of the Tax Act in the taxation year to the maximum extent possible. 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 11.1 to be effected.

11.2 Allocation

Income of the Trust for a Taxation Year and net realized capital gains of the Trust for the purposes of the Tax Act will be allocated to the Trust Unitholders in the same proportions as the distributions received by Trust Unitholders. The income of the Trust for any taxation year of the Trust will be the income for such year computed in accordance with the provisions of the Tax Act, other than paragraph 82(1)(b) and subsection 104(6) thereof, regarding the calculation of income for the purposes of determining the "taxable

income" of the Trust subject to such adjustment as the Trustees may in their discretion determine; provided, however, that capital gains and capital losses will be excluded from the computation of income of the Trust and, if an amount has been designated by the Trust under subsection 104(19) of the Tax Act, such designation shall be disregarded for this purpose. The Trustees shall in each year make such other designations for tax purposes in respect of distributions that the Trustees consider to be reasonable in all of the circumstances.

11.3 Payment of Distributions

Distributions shall be made by cheque payable to or to the order of the Trust 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 Trust Unitholder or to his agent duly authorized in writing or upon the mailing of a cheque by prepaid first-class mail addressed to the Trust Unitholder at his 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, and shall be entitled to, deduct or withhold from distributions payable to any Trust Unitholder all amounts required by law to be withheld from such distribution and the Trust shall remit such taxes to the appropriate governmental authority within the times prescribed by law. Trust Unitholders who are Non-Residents will be required to pay all withholding taxes payable in respect of any distributions of income by the Trust, whether such distributions are in the form of cash or additional Units.

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. Immediately after a pro rata distribution of such Units to all Trust Unitholders and in satisfaction of any non-cash distribution, the number of outstanding Units will be consolidated so that each Trust Unitholder will hold after the consolidation the same number of Units as the Trust 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 will be the market price (determined in accordance with Section 7.14(c)) of the Units determined as of 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 Trust Unitholder's share of the distribution and such amount is not paid by the Trust Unitholder to the Trust, the consolidation will result in such Trust Unitholder holding that number of Units equal to (i) the number of Units held by such Trust Unitholder prior to the distribution plus the number of Units received by such Trust 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 Trust Unitholder. Such Trust Unitholder will be required to surrender the Unit Certificates, if any, representing such Trust Unitholder's original Units, in exchange for a Unit Certificate representing such Trust Unitholders' post-consolidation Units.

11.4 Withholding Taxes

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

11.5 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.

11.6 Designations

The Trustees shall make such elections, designations or other filings for tax purposes in respect of amounts paid or payable to Trust Unitholders for such amounts that the Trustees consider to be reasonable, including, without limitation, 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.

11.7 Definitions

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

ARTICLE XII FEES AND EXPENSES

12.1 Expenses

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

- (a) interest and other costs of borrowed money;
- (b) fees and expenses of lawyers, accountants, auditors, appraisers and other agents or consultants employed by or on behalf of the Trust or the Trustees;
- (c) fees and expenses of the Trustees;
- (d) fees and expenses connected with the acquisition, disposition and ownership of real property interests or mortgage loans or other property;
- (e) insurance as considered necessary by the Trustees;
- (f) expenses in connection with payments of distributions of Units of the Trust;
- (g) expenses in connection with communications to Unitholders and the other bookkeeping and clerical work necessary in maintaining relations with unitholders;

- (h) expenses of changing or terminating the Trust;
- (i) fees and charges of transfer agents, registrars, indenture trustees and other trustees and custodians;
- (j) all fees, expenses, taxes and other costs incurred in connection with the issuance, distribution, transfer and qualification for distribution to the public of Units and other required governmental filings; and
- (k) all costs and expenses in connection with the incorporation or establishment, organization and maintenance of corporations and other entities formed to hold real property or other property of the Trust,

provided that that the Trust will not incur any expense that would cause the Trust to fail or cease to qualify as a "mutual fund trust" or "real estate investment trust" under the Tax Act.

12.2 Payment of Real Property and Brokerage Commissions

The Trust may pay real property and brokerage commissions at commercial rates in respect of the acquisition and disposition of any investment acquired or disposed of by it.

12.3 Asset Management, Leasing and Financing Fees

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

ARTICLE XIII

AMENDMENTS TO THE DECLARATION OF TRUST

13.1 Amendments by the Trustees

Notwithstanding Section 13.3, the Trustees may, without the approval of or notice to the Unitholders, make certain amendments to the Declaration of Trust, including amendments:

- (a) aimed at ensuring continuing compliance with applicable laws, regulations, requirements or policies of any governmental authority having jurisdiction over: (i) the Trustees or the Trust; (ii) the status of the Trust as a "unit trust", a "mutual fund trust" and a "real estate investment trust" under the Tax Act; or (iii) the distribution of Units;
- (b) which, in the opinion of the Trustees, provide additional protection for the unitholders;
- (c) to remove any conflicts or inconsistencies in the Declaration of Trust or to make minor corrections which are, in the opinion of the Trustees, necessary or desirable and not prejudicial to the unitholders;
- (d) which, in the opinion of the Trustees, are necessary or desirable to remove conflicts or inconsistencies between the disclosure in the Information Circular and the Declaration of Trust;
- (e) of a minor or clerical nature or to correct typographical mistakes, ambiguities or manifest omissions or errors, which amendments, in the opinion of the Trustees, are necessary or desirable and not prejudicial to the unitholders;

- (f) which, in the opinion of the Trustees, are necessary or desirable: (i) to ensure continuing compliance with IFRS; or (ii) to ensure the Units qualify as equity for purposes of IFRS;
- (g) which, in the opinion of the Trustees, are necessary or desirable to enable the Trust to implement a Trust Unit option or purchase plan, a distribution reinvestment plan or issue Units for which the purchase price is payable in installments;
- (h) which, in the opinion of the Trustees, are necessary or desirable for the Trust to qualify for a particular status under, or as a result of changes in, taxation or other laws, or the interpretation of such laws, including to qualify for the definition of "mutual fund trust" and "real estate investment trust" in the Tax Act or to otherwise prevent the Trust or any of its Subsidiaries from becoming subject to tax under the SIFT Legislation;
- (i) to create one or more additional classes of units solely to provide voting rights to holders of shares, units or other securities that are Exchangeable Units entitling the holder thereof to a number of votes not exceeding the number of Trust Units into which the exchangeable shares, units or other securities are exchangeable or convertible but that do not otherwise entitle the holder thereof to any rights with respect to the Trust's property or income other than a return of capital; and
- (j) for any purpose (except one in respect of which a Unitholder vote is specifically otherwise required) which, in the opinion of the Trustees, is not prejudicial to Unitholders and is necessary or desirable;

but notwithstanding the foregoing, no such amendment shall modify the right to vote attached to any Unit or reduce the equal undivided interest in the property of the Trust or the entitlement to distributions from the Trust provided hereunder (including those provided for in Article X above and Article XIV) represented by any Unit without the consent of the Unitholders provided in accordance with Sections 13.2 and 13.3, as applicable, or cause the Trust to fail or cease to qualify as a "mutual fund trust", "real estate investment trust", or "unit trust" under the Tax Act, or cause the Trust or a Subsidiary of the Trust to be subject to tax under paragraph 122(1)(b), subsection 197(2) or Part XII.2 of the Tax Act.

13.2 Amendments by Unitholders

Subject to Sections 6.3, 13.3 and 13.4, this Declaration of Trust may be amended by the vote of a majority of the votes cast at a meeting of Unitholders called for that purpose.

13.3 Approval by Special Resolution

Subject to Section 13.1, none of the following shall occur unless the same has been duly approved by Special Resolution:

- (a) any amendment to this Section 13.3;
- (b) an exchange, reclassification or cancellation of all or part of the Units;
- (c) the addition, change or removal of the rights, privileges, restrictions or conditions attached to the Units;
- (d) any constraint of the issue, transfer or ownership of the Units or the change or removal of such constraint;

- (e) the sale or transfer of the assets of the Trust as an entirety or substantially as an entirety (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders);
- (f) the termination of the Trust (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders);
- (g) the combination, amalgamation or arrangement of any of the Trust or its subsidiaries with any other entity (other than as part of an internal reorganization of the assets of the Trust approved by the Trustees and not prejudicial to Unitholders); and
- (h) except as provided in Section 6.3, the amendment of the investment guidelines and operating policies of the Trust.

13.4 Amendment by the Sole Unitholder

Notwithstanding Sections 13.1, 13.2 and 13.3, so long as the Initial Unitholder is the sole Unitholder of the Trust, the Initial Unitholder may make any amendment to this Declaration of Trust including this Section 13.4.

13.5 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 or any of the Subsidiaries (including, without limitation, forming additional trusts or limited partnerships to be subsidiaries of the Trust), any such resolution or reorganization shall not require the prior approval of Unitholders provided that such reorganization is not prejudicial to Unitholders.

13.6 No Termination

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

13.7 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.

13.8 Restriction on Amendments Affecting Certain Rights of Trustees

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

ARTICLE XIV SUPPLEMENTAL INDENTURES

14.1 Provision for Supplemental Indentures for Certain Purposes

The Trustees may, without approval of the Unitholders and subject to the provisions hereof, and shall, when so directed in accordance with the provisions hereof, execute and deliver indentures or instruments

supplemental hereto which thereafter shall form part hereof, for any one or more or all of the following purposes:

- (a) modifying or amending any provisions of this Declaration of Trust in the circumstances set forth in Section 13.1 where the Trustees may do so without the consent, approval or ratification of the Unitholders or any other person; and
- (b) modifying or amending any provisions of this Declaration of Trust where the modification or amendment has been approved by Ordinary Resolution, Special Resolution or, if required, with the consent of the holders of all of the Units.

ARTICLE XV

TERMINATION OF THE TRUST

15.1 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 property of the Trust, and the Trustees shall have all the powers and discretions, expressed and implied, conferred upon them by law or by this Declaration of Trust.

15.2 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.

15.3 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 proportionately to the Trust Unitholders. Such distribution may be made in cash or in kind or partly in each, all as the Trustees in their sole discretion may determine.

15.4 Procedure Upon Termination

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

15.5 Powers of the Trustees Upon Termination

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

15.6 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 15.4, 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 property of the Trust, and the Trustees may either take appropriate steps, or appoint an agent to take appropriate steps, to contact such unitholders (deducting all expenses thereby incurred

from the amounts to which such unitholders are entitled as aforesaid) or, in the discretion of the Trustees, may pay such amounts into court.

15.7 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's property after the date referred to in Section 15.4 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 15.3.

ARTICLE XVI LIABILITIES OF TRUSTEES AND OTHERS

16.1 Liability and Indemnification of the Trustees

The Trustees shall at all times, including, for the purposes of this Article XVI, the time after they have ceased to be a Trustee, be indemnified and saved harmless out of the property of the Trust from and against all liabilities, damages, losses, debts and claims whatsoever, including costs, charges and expenses in connection therewith, sustained, incurred, brought, commenced or prosecuted against them for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of their duties as Trustees and also from and against all other liabilities, damages, losses, debts, claims, costs, charges, and expenses (including, without limitation, legal fees and disbursements on a solicitor and client basis) which they sustain or incur in or about or in relation to the affairs of the Trust (whether accrued, actual, contingent or otherwise), claims, costs, charges or expenses arising out of or in connection with the presence, release, discharge or disposal of any hazardous substance or any adverse environmental conditions at, on, under or near any real property or any investigation, remediation or clean up action required to be undertaken in connection with any real property. Further, the Trustees shall not be liable to the Trust or to any Unitholder or Annuitant for any loss or damages relating to any matter regarding the Trust, including, without limitation, any loss or diminution in the value of the Trust or its assets. The foregoing provisions of this Section 16.1 in favour of any Trustee do not apply unless:

- (a) the Trustee acted honestly and in good faith with a view to the best interests of the Trust and the Unitholders; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the Trustee had reasonable grounds for believing his conduct was lawful.

16.2 Indemnification of Trustees

Each Trustee, each former Trustee, each officer of the Trust and each former officer of the Trust shall be entitled to be and shall be indemnified and reimbursed out of the Trust's property in respect of any and all taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon the Trustee or former Trustee or officer or former officer in consequence of its performance of its duties hereunder and in respect of any and all costs, charges and expenses, including amounts paid to settle an action or satisfy a judgment, reasonably incurred in respect of any civil, criminal or administrative action or proceeding to which the Trustee, former Trustee, officer or former officer is made a party by reason of being or having been a Trustee or officer of the Trust or, at the request of the Trust, a trustee or officer or any subsidiary or affiliate thereof, provided that a Trustee, former Trustee, officer or former officer shall not be indemnified out of the Trust's property in respect of unpaid taxes or other governmental charges or in respect of such costs, charges and expenses that arise out of or as a result or in the course of a breach of the standard of care, diligence and skill set out in Section 4.5. A Trustee, former Trustee, officer or former officer shall not be entitled to satisfy any right of indemnity or reimbursement granted herein, or otherwise

existing under law, except out of the Trust's 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.

16.3 Contractual Obligations of the Trust

The omission of the statement described in Subsection 6.2(b)(ii) from any document or instrument shall not render the Trustees or the Unitholders liable to any person, nor shall the Trustees or the Unitholders be liable for such omission. If the Trustees or any Unitholder shall be held liable to any person by reason of the omission of such statement from any such agreement, undertaking or obligation, such Trustee or Unitholder shall be entitled to indemnity and reimbursement out of the Trust's property to the full extent of such liability.

16.4 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 property of the Trust shall be lodged or deposited, or for any loss occasioned by error in judgment or oversight on the part of the Trustees, or for any other loss, damage or misfortune which may happen in the execution by the Trustees of their duties hereunder, except to the extent the Trustees have not acted in accordance with Subsections 16.1(a) and 16.1(b).

16.5 Reliance Upon Advice

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

16.6 Liability of Unitholders and Others

No Unitholder or Annuitant or any officer, trustee, employee or agent of the Trust shall be held to have any personal liability as such, and no resort shall be had to his or her private property (including, without limitation, any property consisting of or arising from a distribution of any kind or nature by the Trust) for satisfaction of any obligation or claim arising out of or in connection with any contract or obligation of the Trust or of the Trustees or any obligation which a Unitholder or Annuitant would otherwise have to indemnify a Trustee for any personal liability incurred by the Trustee as such, but rather the assets of the Trust only are intended to be liable and subject to levy or execution for such satisfaction. Any written instrument creating an obligation which is or includes the granting by the Trust of a lease, sublease or mortgage or which is, in the judgment of the Trustees, a material obligation, shall contain a provision to the effect that the obligation being created is not personally binding upon, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, the private property (including, without limitation, any property consisting of or arising from a distribution of any kind or nature by the Trust) of any of the Unitholders or Annuitant or officers, trustees, employees and agents of the Trust, but the property of the Trust 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 16.1, 16.4 and 16.5. Nothing in this Declaration will preclude the Trustees from exercising any rights granted to them under the Tax Act or any other applicable taxation legislation to withhold from amounts payable to Unitholders or otherwise recover from Unitholders any taxes that the Trustees have paid on behalf of Unitholders.

ARTICLE XVII

GENERAL

17.1 Execution of Instruments

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

17.2 Manner of Giving Notice

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

17.3 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.

17.4 Joint Holders

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

17.5 Service of Notice

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

17.6 Trust Auditors

The Auditors shall be appointed at each annual meeting save that, until the first such annual meeting, such 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 until the next annual meeting of Unitholders. 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.

17.7 Fiscal Year

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

17.8 Reports to Unitholders

The Trust will furnish to Unitholders such financial statements (including quarterly and annual financial statements) and other reports as are from time to time required by this Declaration of Trust and by applicable law. Prior to a meeting of Unitholders, the Trustees will provide the Unitholders (along with notice of such meeting) information required by applicable tax laws and Securities Laws. For greater certainty and in accordance with Section 17.10, any financial statements and other reports required to be furnished pursuant to this Section 17.8 may be furnished in electronic form to the extent and in the manner permitted by applicable Securities Laws.

17.9 Trust Property to be Kept Separate

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

17.10 Electronic Documents

Any requirement under this Declaration of Trust, the *Securities Act* (Ontario) or any other applicable law that a notice, statement, document or other information be created, provided or delivered is satisfied by the creation, provision or delivery of an electronic document to the extent permitted by law. For certainty, notwithstanding any other provision of this Declaration of Trust, the Trust shall be permitted to utilize the "notice and access" delivery procedures set out in National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*.

17.11 Trustees May hold Units

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

17.12 Trust Records

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

17.13 Right to Inspect Documents

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

17.14 Taxation Information

On or before the 90th day of each calendar year, or such earlier day as is required by applicable legislation or regulation, the Trust will provide to Trust Unitholders who received distributions from the Trust in the prior calendar year, such information required by Canadian law to be submitted to Trust Unitholders for income tax purposes to enable Trust Unitholders to complete their tax returns in respect of such distributions. In particular, each Trust Unitholder shall be informed each year of the composition of the amounts payable by the Trust to such Trust Unitholder in terms of net income, taxable dividends, net taxable gains, foreign source income and return of capital, and will be informed of the portion of such net income that has been designated as taxable dividends on shares of taxable Canadian corporations and taxable capital gains and of the amount of any foreign taxes paid by the Trust in respect of which the Trust Unitholder may claim a credit for tax purposes to the extent permitted by the Tax Act, where those items are applicable.

17.15 Consolidations

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

17.16 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.

17.17 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.

17.18 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.

17.19 Governing Law

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

17.20 Transition

Notwithstanding any other provision hereof, if otherwise applicable, the approval of a majority of the independent Trustees shall not be required, and the provisions of Section 4.10 shall not be operative or effective with respect to the entering into of, any agreement, transaction or arrangement or proposed agreement, transaction or arrangement disclosed in the Information Circular.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

~~"Timothy R. Banks"~~

~~Timothy R. Banks, Trustee~~

~~"Philip D. Fraser"~~

Philip D. Fraser, Trustee

~~"Robert G. Kay"~~

~~Robert G. Kay~~ Aldéa Landry, Trustee

~~"James C. Lawley"~~

James C. Lawley, Trustee

~~"Arthur G. Lloyd"~~

~~Arthur G. Lloyd, Trustee~~

~~"Karine MacIndoe"~~

Karine MacIndoe, Trustee

Laurie MacKeigan, Trustee

Douglas McGregor, Trustee

Shant Poladian, Trustee

Andrée Savoie, Trustee

~~"Robert G. Richardson"~~

Robert G. Richardson, Trustee

~~"Manfred J. Walt"~~

Manfred J. Walt, Trustee

~~"G. Wayne Watson"~~

~~G. Wayne Watson, Trustee~~

**KILLAM PROPERTIES INC., the Initial
Unitholder**

Per: "Philip D. Fraser"
Name: ~~Philip D. Fraser~~
Title: ~~President and Chief Executive Officer~~

SCHEDULE A

KILLAM APARTMENT REAL ESTATE INVESTMENT TRUST TRUSTEES' REGULATIONS

INTERPRETATION

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

MEETINGS OF TRUSTEES

2. **Place and Time of Meeting.** All meetings of the Trustees called by the giving of notice shall be held at a place in Canada and, unless consented to in writing by a majority of the Trustees, on a business day which place and time shall be specified in the notice.
3. **Notice.** The notice of any meeting need not specify the purpose of or the business to be transacted at the meeting.
4. **Adjournment.** Any meeting of Trustees may be adjourned from time to time by the chairperson of the meeting, with the consent of the meeting, to a fixed time and place. Notice of any adjourned meeting of Trustees is not required to be given if the time and place of the adjourned meeting is announced at the original meeting, but notice of the adjourned meeting shall be given to the Trustees not present at such original meeting by delivering (not mailing) the same not less than one day (exclusive of the day on which the notice is delivered but inclusive of the day for which notice is given) before the adjourned meeting. Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat. The Trustees who formed a quorum at the original meeting are not required to form the quorum at the adjourned meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment. Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.
5. **Minutes of Meetings.** The chairperson shall appoint a secretary to act as secretary of each meeting of the Trustees and of the Unitholders. Written records and minutes of all meetings of Trustees shall be maintained by the secretary of each meeting and shall be placed in the minute book of the Trust. Any written records and minutes of meetings of any committee of Trustees shall be maintained by the secretary of such meeting may but need not be placed in the minute book of the Trust. There shall be inserted or entered into the records and minutes of the meetings of Trustees all written disclosures or requests made to have entered into the minutes of the meeting, of the nature and extent of a person's interest in a material agreement or transaction or proposed material agreement or transaction with the Trust made pursuant to Section 4.10 of the Declaration of Trust.

FOR THE PROTECTION OF TRUSTEES AND OFFICERS

6. **For the Protection of Trustees and Officers.** The provisions of the Declaration of Trust pertaining to the liability and indemnification of Trustees shall apply mutatis mutandis to the officers of the Trust or persons

who act or acted at the Trust's request as a director or officer of a body corporate of which the Trust is or was a shareholder or creditor, and his heirs and legal representatives.

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

OFFICERS

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

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

8. **Chairperson.** The Chair of Trustees shall be appointed from among the Trustees and shall be a non-executive appointment. When present the Chair of Trustees shall preside as chair at all meetings of the Trustees and at all meetings of the Unitholders, unless a Trustee who is not the Chair of Trustees is selected to do so by the Trustees in accordance with Section 8.5 of the Declaration of Trust.
9. **Powers and Duties.** Subject to the provisions of the Declaration of Trust, all officers of the Trust shall sign such contracts, documents or instruments in writing as require their respective signatures and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the Trustees.
10. **Duties May be Delegated.** Subject to the provisions of the Declaration of Trust, in case of the absence or inability to act of any officer of the Trust or for any other reason that the Trustees may deem sufficient, the Trustees may delegate all or any of the powers of such officer to any other officer or to any Trustee for the time being.
11. **Vacancies.** If the office of any officer of the Trust shall be or become vacant by reason of death, resignation, incapacity, removal or otherwise, the Trustees may appoint a person to fill such vacancy.

UNITHOLDERS' MEETINGS

12. **Place and Time of Meetings.** Each meeting of the Unitholders shall be held at a place in Canada on a Business Day which place and time shall be specified in the notice calling the meeting.
13. **Notice.** A printed, written or typewritten notice stating the day, hour and place of any meeting of the Unitholders as well as the purpose shall be given by serving such notice on each Unitholder entitled to vote at such meeting, on each Trustee and on the auditor of the Trust in the manner provided for in the Declaration of Trust and in these Trustees' Regulations. A meeting of the Unitholders may be held for any purpose on any day and at any time without notice if all of the Unitholders and all other persons entitled to attend such meeting are present in person or, where appropriate, represented by proxy at the meeting (except where a Unitholder or other person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called) or if all of the

Unitholders and all other persons entitled to attend such meeting who are not present in person or, where appropriate, represented by proxy thereat waive notice before or after the date of such meeting.

14. **Waiver of Notice.** A Unitholder and any other person entitled to attend a meeting of the Unitholders may in any manner waive notice of a meeting of the Unitholders and attendance of any such person at a meeting of the Unitholders shall constitute a waiver of notice of the meeting except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
15. **Votes.** Every question submitted to any meeting of the Unitholders, other than in respect of a Special Resolution, shall be decided in the first instance by a show of hands unless a person entitled to vote at the meeting has demanded a ballot.

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

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

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

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

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

A proxy may be in the following form:

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

DATED this day of _____

Signature of Unitholder

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

17. **Adjournment.** The chairperson of any meeting of the Unitholders may with the consent of the meeting adjourn the same from time to time to another Business Day at a fixed time and place and no notice of such adjournment need be given to the Unitholders with the exception of a meeting adjourned for a lack of quorum pursuant to Section 8.6 of the Declaration of Trust. Any business may be brought before or dealt with at any adjourned meeting for which no notice is required which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

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

18. **Quorum.** No business shall be transacted at any meeting of the Unitholders unless the requisite quorum is present at the time of the transaction of such business. If a quorum is not present at the time appointed for a meeting of the Unitholders or within 30 minutes thereafter, the persons present and entitled to vote may adjourn the meeting to another business day not less than 14 days later at a fixed time and place as selected by the Board, but may not transact any other business and the provisions of paragraph 17 with regard to notice shall apply to such adjournment.
19. **Minutes of Meetings.** Written records and minutes of each meeting of the Unitholders shall be maintained by the secretary of each meeting and shall be placed in the minute book of the Trust.

CERTIFICATES

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

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

TRANSFER OF UNITS

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

VOTING SHARES AND SECURITIES IN BODIES CORPORATE

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

NOTICES

23. **Service.** If a notice or document is sent to a Unitholder by prepaid first-class mail in accordance with the provisions of the Declaration of Trust and the notice or document is returned on three consecutive occasions because the Unitholder cannot be found, it shall not be necessary to send any further notices or documents to the Unitholder until he informs the Trust in writing of his new address.
24. **Units Registered in More Than One Name.** All notices or other documents with respect to any Units registered in more than one name shall be given to whichever of such persons is named first in the records of the Trust and any notice or other document so given shall be sufficiently given to all of the holders of such Units.
25. **Deceased Unitholders.** Any notice or other document delivered or sent in a manner contemplated in the Declaration of Trust to the address of any Unitholder as the same appears in the records of the Trust shall, notwithstanding that such Unitholder be then deceased, and whether or not the Trust has notice of his death, be deemed to have been duly served in respect of the Units held by such Unitholder (whether held solely or with any other person or persons) until some other person be entered in his stead in the records of the Trust as the holder or one of the holders thereof and such service shall for all purposes be deemed a sufficient service of such notice or document on his heirs, executors or administrators and on all persons, if any, interested through him or with him in such Units.
26. **Signature to Notices.** The signature of any Trustee or officer of the Trust to any notice or document to be given by the Trust may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed.
27. **Computation of Time.** Where a given number of days' notice or notice extending over a period is required to be given under any provisions of the Declaration of Trust or these Trustees' Regulations, the day of service or posting of the notice or document shall not, unless it is otherwise provided, be counted in such number of days or other period, but the day of receipt of the notice or document shall, unless it is otherwise provided, be counted in such number of days or other period.
28. **Proof of Service.** With respect to every notice or other document sent by post it shall be sufficient to prove that the envelope or wrapper containing the notice or other document was properly addressed as provided in the Declaration of Trust and in these Trustees' Regulations and put into a post office or into a letter box. A certificate of an officer of the Trust in office at the time of the making of the certificate or of a transfer officer of any transfer agent or branch transfer agent of Units of the Trust as to facts in relation to the sending or delivery of any notice or other document to any Unitholder, Trustee, officer or auditor of the Trust or publication of any notice or other document shall be conclusive evidence thereof and shall be binding on every Unitholder, Trustee, officer or auditor of the Trust, as the case may be.

CHEQUES, DRAFTS AND NOTES

29. **Cheques, Drafts and Notes.** All cheques, drafts or orders for the payment of money and all notes and acceptances and bills of exchange shall be signed by such officer or officers of the Trust or person or

persons, whether or not officers of the Trust, and in such manner as the Trustees may from time to time designate.

CUSTODY OF SECURITIES

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

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

EXECUTION OF INSTRUMENTS

31. **Execution of Instruments.** All contracts, documents or instruments in writing requiring the signature of the Trust may be signed by any officer or Trustee of the Trust and all contracts, documents and instruments in writing so signed shall be binding upon the Trust without any further authorization or formality. The Trustees shall have power from time to time to appoint any officer or officers, or any person or persons, on behalf of the Trust either to sign contracts, documents and instruments in writing generally or to sign specific contracts, documents or instruments in writing.

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

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

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

INCONSISTENCIES WITH DECLARATION OF TRUST

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

