

**CRYSTAL CREEK HOMES REAL ESTATE  
MUTUAL FUND TRUST**

---

**AMENDED AND RESTATED  
DECLARATION OF TRUST**

---

March 31, 2020, AMENDED AND RESTATED May 21, 2020

**TABLE OF CONTENTS**

	Page
<b>ARTICLE I INTERPRETATION</b>	<b>5</b>
1.1    Definitions	5
1.2    References to Acts Performed by the Fund	8
1.3    Governing Law	8
1.4    Currency	9
<b>ARTICLE II DECLARATION OF TRUST</b>	<b>9</b>
2.1    Establishment of the Fund	9
2.2    Initial Contribution	9
2.3    Name of the Fund	9
2.4    Nature of the Fund	9
2.5    Head Office	9
2.6    Rights of Unitholders	9
2.7    Liability of Unitholders	10
2.8    Contractual Obligations of the Fund	11
<b>ARTICLE III ISSUE AND SALE OF UNITS</b>	<b>11</b>
3.1    Nature of Units	11
3.2    Authorized Number of Units	13
3.3    Issue of Unit to Initial Unitholder	13
3.4    Future Issue of Units	13
<b>ARTICLE IV PURPOSE AND INVESTMENTS OF THE FUND</b>	<b>13</b>
4.1    Purpose of the Fund	13
<b>ARTICLE V DISTRIBUTIONS</b>	<b>14</b>
5.1    Computation of Distributable Cash Flow of the Fund	14
5.2    Computation of Income and Net Realized Capital Gains	15
5.3    Distributions of Distributable Cash Flow	15
5.4    Other Distributions	15
5.5    Character of Distributions and Designations	16
5.6    Method of Payment of Distributions	16
5.7    DRIP Program	16
5.8    Withholding Taxes	17
5.9    Payments of Cash	17
<b>ARTICLE VI REDEMPTION OF UNITS</b>	<b>17</b>
6.1    Right of Redemption	17
6.2    Exercise of Redemption Right	17
6.3    Cash Redemption	18
6.4    No Cash Redemption in Certain Circumstances	19
6.5    Minimum Number of Unitholders on Redemption	19
6.6    In Specie Redemption	19
6.7    Cancellation of Certificates for all Redeemed Units	19
6.8    Redemption	20
<b>ARTICLE VII TRUSTEES</b>	<b>20</b>
7.1    Number of Trustees	20
7.2    Multiple Trustees	20

<b>ARTICLE VIII APPOINTMENT, RESIGNATION AND REMOVAL OF TRUSTEES</b>	<b>22</b>
8.1 Qualification of Trustees	22
8.2 Election and Appointment of Trustees	23
8.3 Consent to Act	23
8.4 Ceasing to Hold Office	23
8.5 Removal of Trustee	24
8.6 Filling Vacancies	24
8.7 Validity of Acts	24
<b>ARTICLE IX CONCERNING THE TRUSTEE</b>	<b>25</b>
9.1 Powers and Authorities of the Trustees	25
9.2 Restrictions on Trustees' Powers	28
9.3 Banking	28
9.4 Standard of Care and Duties	28
9.5 Fees and Expenses	28
9.6 Limitations on Liability of the Trustees	28
9.7 Indemnification of the Trustees	29
9.8 Conflicts of Interest	29
<b>ARTICLE X AMENDMENT</b>	<b>31</b>
10.1 Amendment	31
<b>ARTICLE XI MEETINGS OF UNITHOLDERS</b>	<b>31</b>
11.1 Annual and Special Meetings of Unitholders	31
11.2 Notice of Meetings	32
11.3 Quorum	32
11.4 Voting Rights of Unitholders	32
11.5 Resolutions Binding the Trustees	33
11.6 Meaning of "Special Resolution"	33
11.7 Meaning of "Outstanding"	34
11.8 Record Date for Voting	34
11.9 Appointment of Inspector	34
11.10 Resolutions in Writing	35
<b>ARTICLE XII CERTIFICATES, REGISTRATION AND TRANSFER OF UNITS</b>	<b>35</b>
12.1 Nature of Units	35
12.2 Unit Certificates	35
12.3 Contents of Unit Certificates	35
12.4 Register of Unitholders	36
12.5 Limitation on Non-Resident Ownership	37
12.6 Transfer of Units	37
12.7 Performance of Fund	38
12.8 Lost Certificates	38
12.9 Death of a Unitholder	38
12.10 Unclaimed Interest or Distribution	39
12.11 Offers for Units	39
12.12 Power of Attorney	41
<b>ARTICLE XIII TERMINATION</b>	<b>42</b>
13.1 Term of Fund	42

<b>13.2</b>	<b>Termination with the Approval of Unitholders</b>	<b>42</b>
<b>13.3</b>	<b>Automatic Termination</b>	<b>42</b>
<b>13.4</b>	<b>Procedure Upon Termination</b>	<b>42</b>
<b>13.5</b>	<b>Powers of the Trustees Upon Termination</b>	<b>42</b>
<b>13.6</b>	<b>Sale of Investments</b>	<b>42</b>
<b>13.7</b>	<b>Distribution of Proceeds</b>	<b>43</b>
<b>13.8</b>	<b>Further Notice to Unitholders</b>	<b>43</b>
<b>13.9</b>	<b>Responsibility of the Trustees after Sale and Conversion</b>	<b>43</b>
	<b>ARTICLE XIV GENERAL</b>	<b>43</b>
<b>14.1</b>	<b>Notices</b>	<b>43</b>
<b>14.2</b>	<b>Failure to Give Notice</b>	<b>44</b>
<b>14.3</b>	<b>Joint Holders</b>	<b>44</b>
<b>14.4</b>	<b>Service of Notice</b>	<b>44</b>
<b>14.5</b>	<b>Information Available to Unitholders</b>	<b>44</b>
<b>14.6</b>	<b>Income Tax: Obligations of the Trustees</b>	<b>45</b>
<b>14.7</b>	<b>Income Tax: Election</b>	<b>45</b>
<b>14.8</b>	<b>Income Tax: Deductions</b>	<b>45</b>
<b>14.9</b>	<b>Fiscal Year</b>	<b>45</b>
<b>14.10</b>	<b>Financial Disclosure</b>	<b>45</b>
<b>14.11</b>	<b>Unitholder Meeting Information</b>	<b>45</b>
<b>14.12</b>	<b>Taxation Information</b>	<b>46</b>
	<b>ARTICLE XV ACCOUNTANTS</b>	<b>46</b>
<b>15.1</b>	<b>Qualification of Accountants</b>	<b>46</b>
<b>15.2</b>	<b>Reports of Accountants</b>	<b>46</b>
	<b>ARTICLE XVI MISCELLANEOUS</b>	<b>46</b>
<b>16.1</b>	<b>Successors and Assigns</b>	<b>46</b>
<b>16.2</b>	<b>Counterparts</b>	<b>46</b>
<b>16.3</b>	<b>Severability</b>	<b>46</b>

**CRYSTAL CREEK HOMES REAL ESTATE  
MUTUAL FUND TRUST**

**THIS AMENDED AND RESTATED DECLARATION OF TRUST made as of May 21, 2020**

**BETWEEN:**

**JUSTIN BOBIER, JOHN KOZOLE** each individuals, ordinarily resident in or around the City of Calgary, Alberta, **AND CAROL OXTOBY**, ordinarily resident in or around Heritage Pointe, Alberta, as the first Trustees (the "**Initial Trustees**") of the trust constituted by this Declaration of Trust

- and -

**DONNA BOBIER**, an individual, ordinarily resident in the City of Calgary in the Province of Alberta (the "**Settlor**")

**WHEREAS** the Settlor created a trust, dated March, 30, 2020, for the purpose of benefiting the Unitholders and acquiring and holding investments including the acquisition and holding of all of the Limited Partnership Units in CCH Real Estate Limited Partnership, and such other investments as the Trustees desire and which are permitted;

**WHEREAS** for the purpose of settling the trust created hereunder, the Settlor is delivering to the Initial Trustees the Initial Contribution;

**WHEREAS** the Trustees have agreed to hold the Initial Contribution and all amounts and assets subsequently received under this Amended and Restated Declaration of Trust in accordance with the provisions hereinafter set forth;

**WHEREAS** the Settlor and the Trustees desire that the beneficiaries of the Trust shall be the holders of Units evidenced by certificates therefor as provided in this Amended and Restated Declaration of Trust; and

**WHEREAS** the Settlor and the Trustees desire that the Trust shall qualify as a "mutual fund trust" pursuant to the *Income Tax Act* (Canada).

**THEREFORE**, in consideration of the promises and the mutual and respective covenants and agreements contained herein, the Trustees declare, covenant and agree with the Settlor, and the Settlor covenants and agrees with the Trustees as follows:

**ARTICLE I  
INTERPRETATION**

**1.1 Definitions**

In this Declaration of Trust and in the Unit Certificates, unless the context otherwise requires, the following terms shall have the following meanings:

- (a) **"A Units"** means Trust Units of the Fund available to subscribers authorized and issued pursuant to this Declaration of Trust and may include or involve the issuance of A Units in series;
- (b) **"Affiliate"** means, with respect to any Person (other than an individual), any other person (other than an individual) directly or indirectly controlling, controlled by, or under direct or indirect common control with the first Person;
- (c) **"Associate"** shall have the meaning ascribed thereto in the *Securities Act*, R.S.A. 2000, c. S-4, as amended from time to time;
- (d) **"Accountants"** means an independent firm of chartered accountants appointed as the accountants of the Fund from time to time in accordance with the provisions hereof and, initially, means PWC LLP, chartered accountants;
- (e) **"Business Day"** means a day which is not a Saturday, Sunday or holiday in the City of Calgary, in the Province of Alberta;
- (f) **"B Units"** means Trust Units of the Fund authorized and issued pursuant to this Declaration of Trust and available to subscribers authorized and issued pursuant to this Declaration of Trust;
- (g) **"Cash Flow of the Fund"** shall have the meaning ascribed thereto in Section 5.1(a);
- (h) **"Cash Redemption Price"** shall have the meaning attributed thereto in Section 7.3;
- (i) **"Declaration of Trust"** means the Crystal Creek Homes Real Estate Mutual Fund Trust Declaration of Trust as amended by this Amended and Restated Declaration of Trust;
- (j) **"Distributable Cash Flow"** shall have the meaning attributed thereto in Section 5.1(b);
- (k) **"Distribution Payment Date"** means a date on which the Trustees have determined to make a distribution of Distributable Cash Flow, which date shall be no later than 120 days following any Distribution Record Date, provided that such day is a Business Day;
- (l) **"Distribution Period"** means the period between two consecutive Distribution Record Dates commencing from and including the day next following the first Distribution Record Date to and including the second Distribution Record Date;
- (m) **"Distribution Record Date"** means December 31 of each year commencing December 31, 2020 and such other date or dates in any year determined from time to time by the Trustees;

- (n) **"Fund"** means Crystal reek Homes Real Estate Mutual Fund Trust, a mutual fund trust constituted by this Declaration of Trust as the same may be amended or restated from time to time;
- (o) **"Fund Assets"** means, at any time, all monies, properties and other assets as are at such time held by the Fund or by the Trustees on behalf of the Fund including, without limitation:
  - (i) the Initial Contribution;
  - (ii) all funds or property realized from the issuance or sale of Units or any other Securities of the Fund from time to time;
  - (iii) all Securities held by the Fund or by the Trustees on behalf of the Fund;
  - (iv) any proceeds of disposition of any of the foregoing property; and
  - (v) all income, interest, dividends, return of capital, profit, gains and accretions and all substituted assets, rights and benefits of any kind or nature whatsoever arising directly or indirectly from or in connection with or accruing to such foregoing property or such proceeds of disposition;
- (p) **"Fund Liabilities"** shall have the meaning ascribed thereto in Section 2.7(a);
- (q) **"In Specie Redemption Price"** shall have the meaning ascribed thereto in Section 7.5;
- (r) **"Income of the Fund"** shall have the meaning ascribed thereto in Section 5.2(a);
- (s) **"Initial Contribution"** means the cash payment of **\$20.00** delivered by the Settlor to the Trustees on the date hereof for the purpose of settling the trust constituted by the Fund;
- (t) **"Initial Transaction"** means the initial transaction which transpired on April 8, 2020, pursuant to which the Fund acquired all of the limited partnership units in and issued by CCH Real Estate Limited Partnership, from CCH Real Estate Mutual Fund Trust, a trust created on July 11, 2019;
- (u) **"Initial Trustees"** means Justin Bobier and John Kozole, each of Calgary, Alberta, and Carol Oxtoby, of Heritage Pointe, Alberta, as the first Trustees of the Fund;
- (v) **"Initial Unitholder"** means Michael Slapman, an individual, resident in Calgary, Alberta as the initial Unitholder of the Fund holding one hundred Class "B" Units;
- (w) **"Inspector"** shall have the meaning ascribed thereto in Section 12.9;

- (x) **"Net Realized Capital Gains"** shall have the meaning ascribed thereto in Section 5.2(b);
- (y) **"Person"** means any individual, corporation, partnership, firm, joint venture, syndicate, trust, government or any other form of entity or organization;
- (z) **"Securities"** means bonds, debentures, notes or other evidence or instruments of indebtedness, shares, stocks, options, subscriptions, limited partnership interests, units or other evidence of title to or interest in the capital, assets, property, profits, earnings or royalties, of any Person;
- (aa) **"Settlor"** means Donna Bobier, an individual ordinarily resident in the City of Calgary, in the Province of Alberta;
- (bb) **"Special Resolution"** shall have the meaning attributed thereto in Section 12.6(a);
- (cc) **"Tax Act"** means the *Income Tax Act*, R.S.C. 1985 (5th Supp.), c.1 and the *Income Tax Regulations* applicable with respect thereto, as amended from time to time;
- (dd) **"Unit Certificate"** means a certificate, in the form approved by the Trustees, evidencing one or more Units, issued as either Class "A" Units or Class "B" Units and certified in accordance with the provisions hereof, or in such other Class as may be authorized, approved and issued from time to time;
- (ee) **"Unitholders"** means, at any time, the beneficiaries of the Fund who are the holders at that time of one or more Class of Units, as shown on the register of such holders maintained by the Fund segregated as to the Class of Units; and
- (ff) **"Units"** means the Trust Units of the Fund initially designated as Class "A" Units and Class "B" Units authorized and issued hereunder as such and for the time being outstanding and entitled to the benefits hereof and which shall represent beneficial interests in the Fund Assets, and includes Trust Units of the Fund of such further class or series as may be authorized and issued.

## 1.2 References to Acts Performed by the Fund

For greater certainty, where any reference is made in this Declaration of Trust to an act to be performed by the Fund, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by the Trustees on behalf of the Fund or by some other Person duly authorized to do so by the Trustees or pursuant to the provisions hereof.

## 1.3 Governing Law

This Declaration of Trust and the Unit Certificates shall be construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein and shall be treated in all respects as Alberta contracts. The parties hereto hereby irrevocably submit and attorn to the jurisdiction of the Courts of the Province of Alberta.



#### **1.4 Currency**

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

### **ARTICLE II DECLARATION OF TRUST**

#### **2.1 Establishment of the Fund**

The Trustees hereby declare and agree to hold the Fund Assets 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 Fund hereunder.

#### **2.2 Initial Contribution**

The delivery by the Settlor, concurrent with the original execution of this Declaration of Trust, of the Initial Contribution to the Trustees for the purpose of settling the Fund is hereby confirmed.

#### **2.3 Name of the Fund**

The Fund shall be known and designated as the "**CRYSTAL CREEK HOMES REAL ESTATE MUTUAL FUND TRUST**" and, whenever lawful and convenient, the property of the Fund shall be held and the affairs of the Fund shall be conducted and transacted under that name.

#### **2.4 Nature of the Fund**

The Fund is an unincorporated, open-ended mutual fund trust established for the purposes specified in Section 4.1. The Fund is not, is not intended to be, shall not be deemed to be and shall not be treated as, a general partnership, limited partnership, syndicate, association, joint venture, company, corporation or joint stock company, nor shall the Trustees or the Unitholders or any of them or any Person be, or be deemed to be, treated in any way whatsoever as liable or responsible hereunder as partners or joint venturers. The Trustees shall not be, or be deemed to be, an agent of the Unitholders. The relationship of the Unitholders to the Trustees shall be solely that of beneficiaries of the Fund and their rights shall be limited to those conferred upon them by this Declaration of Trust.

#### **2.5 Head Office**

The head office of the Fund shall be located at 6010 - 12 St SE Calgary, AB T2H 2X2 or at such other address as the Trustees shall so designate.

#### **2.6 Rights of Unitholders**

The rights of each Unitholder whether as a holder of Class "A" Units or Class "B" Units (or other class of units as may be approved and issued) to call for a distribution or division of assets,

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

## 2.7 Liability of Unitholders

- (a) No Unitholder shall incur or be subject to any liability, direct or indirect, absolute or contingent, in contract or in tort, or of any other kind to any Person in connection with:
- (i) the Fund Assets or the ownership, use, operation, acquisition or disposition thereof or exercise or enjoyment of the rights, privileges, conditions or benefits attached thereto, associated therewith or derived therefrom;
  - (ii) the obligations or the activities or affairs of the Fund;
  - (iii) any actual or alleged act or omission of the Trustees or by any other Person in respect of the activities or affairs of the Fund (whether or not authorized by or pursuant to this Declaration of Trust);
  - (iv) any act or omission of the Trustees or any other Person in the performance or exercise, or purported or attempted performance or exercise, of any obligation, power, discretion or authority conferred upon the Trustees or such other Person in respect of the activities or affairs of the Fund (whether or not authorized by or pursuant to this Declaration of Trust);
  - (v) any transaction entered into by the Trustees or by any other Person in respect of the activities or affairs of the Fund (whether or not authorized by or pursuant to this Declaration of Trust); or
  - (vi) any taxes, levies, imposts or charges or fines, penalties or interest in respect thereof payable by the Fund or by the Trustees or by any other Person on behalf of or in connection with the activities or affairs of the Fund,
- (collectively, "**Fund Liabilities**").
- (b) No Unitholder shall be liable to indemnify the Trustees or any other person with respect to any Fund Liabilities.

- (c) Notwithstanding the provisions of this Section 2.7, to the extent that any Unitholder, in its capacity as such, may be determined by a judgment of a court of competent jurisdiction to be subject to or liable in respect of any Fund Liabilities, such judgment and any writ of execution or similar process in respect thereof; shall be enforceable only against, and shall be satisfied only out of; that Unitholder's share of the Fund Assets.

## **2.8 Contractual Obligations of the Fund**

In respect of any obligations or liabilities being incurred by the Fund, or the Trustees on behalf of the Fund, the Trustees shall make all reasonable efforts to include as a specific term of such obligations or liabilities, a contractual provision to the effect that neither the Unitholders nor the Trustees have any personal liability or obligations in respect thereof. In particular, the Trustees shall make all reasonable efforts to include in every agreement entered into by or on behalf of the Fund, whether by the Trustees or otherwise, a provision substantially to the following effect:

“The parties hereto acknowledge that the Trustees are entering into this agreement solely in their capacity as Trustees on behalf of the Fund and the obligations of the Fund hereunder shall not be personally binding upon the Trustees or any holder of units of the Fund, and that resort shall not be had to, nor shall recourse be sought from, any of the foregoing or the private property of any of the foregoing in respect of any indebtedness, obligation or liability of the Fund arising hereunder or arising in connection herewith or from the matters to which this agreement relates, if any, including, without limitation, claims based on negligence or otherwise tortious behavior, and recourse shall be limited to, and satisfied only out of, the "Fund Assets", as defined in the Declaration of Trust of the Fund dated as of March 31, 2020, as amended from time to time.”

The omission of such a provision from any such written instrument shall not operate to impose personal liability on the Trustees or any of the Unitholders. Notwithstanding this provision, 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, the Trustees or Unitholder shall be entitled to indemnity and reimbursement out of the Fund Assets to the full extent of such liability.

## **ARTICLE III ISSUE AND SALE OF UNITS**

### **3.1 Nature of Units**

- (a) The beneficial interests in the Fund shall be divided into interests of a class, initially divided, described and designated as Class “A” Units and Class “B” Units which shall entitle the holders thereof to the rights, and subject the holders thereof to the limitations, restrictions and conditions, set out herein for each Class of Units so issued.
- (b) Class A Units:

Each holder of Class A Units will receive a distribution from the Fund equal

to the Distributable Cash Flow of the Fund (as defined in Article 5 herein), less those specified payments to Class B Unitholders payable hereunder, and subject to section 3.1 (d) herein. Distributions shall be paid as determined by the Trustees from time to time, but a minimum of annually once cash flow permits.

(c) Class B Units:

In order to become eligible for Units of the Fund to be acquired by a trust governed by a RRSP, RRIF, RESP, LIRA, TFSA or DPSP Trust (“Exempt Plan”), the Fund is required to sell to a minimum of 150 Class B Unitholders, with each Class B Unitholder holding a minimum of 100 Class B Units at a purchase price of not less than \$5.00 per Class B Unit for a minimum total investment of \$500.00. The Fund shall have the ability to sell additional Class B Units from time to time as determined by the Trustees.

The Fund intends to pay to the holders of Class B Units a fixed annual amount equal to six (6%) of the Capital Amount advanced by the Class B Unitholder, pro-rated for any portion of a year the Class B Units are held. Distributions shall be paid as determined by the Trustees from time to time, but a minimum of annually once cash flow permits.

- (d) In the event that the Distributable Cash Flow available for distribution to Class A Unitholders would exceed an eighteen (18%) percent effective annualized return on the original Capital Amounts invested by the Class A Unitholders in any fiscal year (the “Hurdle Rate”), then after payment to the Class A Unitholders of such distribution of Distributable Cash Flow equal to the Hurdle Rate, the additional amount of Distributable Cash Flow shall be split between and distributed to the Class A Unitholders and the Class B Unitholders, on a seventy five (75%) percent/twenty five (25%) percent basis, respectively, until such time as the accumulated payments to Class B Unitholders pursuant to this section equal the amount of Capital Contribution invested by holders of such Class B Units. Namely, at such time as a Class B Unitholder has received payment under this section of an amount equal to its original Capital invested in Class B Units, it would no longer receive any further payment over the Hurdle Rate hereunder, and such amounts would be available for and added to the Distributable Cash Flow to the Class A Unitholders.
- (e) In certain unanticipated instances payments due to Unitholders may be suspended due to an unavailability or interruption of monthly cash flow. In such event, any amounts payable to Unitholders will continue to accrue and paid once cash flows permit.
- (f) Each Unit shall represent an equal undivided beneficial interest in any distribution from the Fund due to such respective Class of Units and in any net assets of the Fund in the event of the termination or winding-up of the Fund. Unitholders shall, in the event of termination or winding-up of the Fund, shall be entitled to distributions of the net assets of the Fund, as follows:

- (i) first, to the holders of Class B Units until such time as the then Capital Account of the Class B Unitholders is repaid;
- (iii) then to the holders of Class A Units pro- rata.

All Units within a Class of Units shall rank equally and ratably without discrimination, preference or priority. Each Unit shall entitle the holder thereof to one vote at all meetings of Unitholders or in respect of any written resolution of Unitholders.

- (g) Since the fund is to be qualified as a Mutual Fund Trust, both the Class A and the Class B Trust units may be acquired by prospective subscribers in an Exempt Plan.

### **3.2 Authorized Number of Units**

The aggregate number of Units of any Class which is authorized and may be issued hereunder is unlimited.

### **3.3 Issue of Unit to Initial Unitholder**

Concurrently with the execution and delivery of this Declaration of Trust by the parties hereto, the Initial Trustees shall execute and issue to the Initial Unitholder, in consideration for the payment of **\$500.00**, a Unit Certificate for one hundred (100) Class "B" Units and the Initial Trustees shall enter the Initial Unitholder on the register of the Trust as the holder of one hundred (100) Class "B" Units and countersign the Unit Certificate and deliver it to the Initial Unitholder.

### **3.4 Future Issue of Units**

- (a) Subject to the terms of this Declaration of Trust, Units may be issued at the times, to the Persons, for the consideration and on the terms and conditions that the Trustees determine.
- (b) Units are only to be issued as fully paid and are not to be subject to future calls or assessment; provided, however, that Units may be issued for a consideration payable in installments, that the Fund may take security over such Units to be issued under any such offering as security for unpaid installments, and that the actual receipt of installment payments may determine the date of entitlement to or computation of certain distributions on Units provided herein, in part to the degree of the installments as a percentage to the total subscription, to the extent that the date of investment is applicable to calculate any entitlement.

## **ARTICLE IV PURPOSE AND INVESTMENTS OF THE FUND**

### **4.1 Purpose of the Fund**

Notwithstanding anything to the contrary herein, the only undertaking of the Fund is the investing

of its funds in property, specifically to acquire all of the limited partnership units of CCH Real Estate Limited Partnership, to earn income therefrom.

## ARTICLE V DISTRIBUTIONS

### 5.1 Computation of Distributable Cash Flow of the Fund

- (a) **The "Cash Flow of the Fund"** means, for any Distribution Period all cash amounts which are received by the Fund, including, without limitation, interest, dividends, distributions, proceeds from the disposition of Securities, returns of capital and repayments of indebtedness and all amounts received by the Fund in any prior Distribution Period to the extent those amounts were not included in the calculation of Cash Flow of the Fund in that prior Distribution Period and were not previously distributed:

**Less:**

- (i) all costs, expenses and liabilities of the Fund which, in the opinion of the Trustees, may reasonably be considered to have accrued and become owing in respect of; or which relate to, such Distribution Period or a prior Distribution Period if not accrued or deducted in determining the Cash Flow of the Fund in such prior period;
  - (ii) all amounts which relate to the redemption or purchase of Units or other Securities of the Fund and which have been paid or become payable in cash by the Fund in such Distribution Period;
  - (iii) any other interest expenses incurred by the Fund between distributions; and
  - (iv) in respect of the first Distribution Period, the net proceeds of the Offering and, in respect of any future Distribution Period, the net proceeds of any other issuance of Units or Securities of the Fund in such Distribution Period after deducting any associated expenses or commissions.
- (b) The "Distributable Cash Flow" for, or in respect of a Distribution Period shall be the Cash Flow of the Fund for such Distribution Period less any amount which the Trustees may reasonably consider to be necessary to:
- (i) provide for the payment of any costs, expenses or liabilities which have been or will be incurred in the activities and operations of the Fund;
  - (ii) be retained by the Fund to comply with such limits or restrictions as may be agreed to between the Trustees and any lender of the Fund or contained in any loan agreement entered into by the Fund or any

- subsidiary or affiliate of the Fund;
- (iii) retain a reserve to stabilize distributions;
- (iv) make allowances for contingencies or for working capital, investments or acquisitions; and
- (v) provide for the payment of any income tax liability of the Fund.

## 5.2 Computation of Income and Net Realized Capital Gains

- (a) The "**Income of the Fund**" for any taxation year of the Fund shall be net income for the year determined pursuant to the provisions of the Tax Act taking into account such adjustments as are determined by the Trustees in respect of dividends received from taxable Canadian corporations, amounts paid or payable by the Fund to Unitholders and such other amounts as may be determined in the discretion of the Trustees, but taking into consideration the entitlement of Unitholders in different Classes to the Distributable Cash Flow of the Fund; provided, however, that capital gains and capital losses shall be excluded from the computation of net income.
- (b) The "**Net Realized Capital Gains**" of the Fund for any taxation year of the Fund shall be determined as the amount, if any, by which the aggregate of the capital gains of the Fund in the year exceeds:
  - (i) the aggregate of the capital losses of the Fund in the year;
  - (ii) any capital gains which are realized by the Fund as a result of a redemption of Units pursuant to Article VI; and
  - (iii) the amount determined by the Trustees in respect of any net capital losses for prior taxation years which the Fund is permitted by the Tax Act to deduct in computing the taxable income of the Fund for the year.

## 5.3 Distributions of Distributable Cash Flow

The Trustees shall, on or before each Distribution Record Date, declare and pay to the Unitholders all of the Distributable Cash Flow for the Distribution Period. Each Unitholder's share of such Distributable Cash Flow shall be an amount equal to the proportionate share of each Unit within a Class of such Distributable Cash Flow due to such Class of Units and multiplied by the recorded number of Units in such Class owned by each such Unitholder on such Distribution Record Date.

## 5.4 Other Distributions

- (a) In addition to the distributions which are made to Unitholders pursuant to Section 5.3, the Trustees may declare to be payable and make distributions, from time to time, out of Income of the Fund, Net Realized Capital Gains, the

capital of the Fund or otherwise, in any year, in such amounts, and on such dates as the Trustees may determine.

- (b) Having regard to the present intention of the Trustees to allocate, distribute and make payable to Unitholders all of the Income of the Fund, Net Realized Capital Gains and any other applicable amounts so that the Fund will not have any liability for tax under the Tax Act in any taxation year, the following amounts shall, unless otherwise determined by the Trustees be due and payable to Unitholders of record on December 31 in each such year:
  - (i) an amount equal to the amount, if any, by which the Income of the Fund for such year exceeds the aggregate of the portions, if any, of each distribution made by the Fund pursuant to Section 5.3 and Section 5.4(a); and
  - (ii) an amount equal to the amount, if any, by which the Net Realized Capital Gains for such year exceeds the aggregate of the portions, if any, of each distribution made by the Fund pursuant to Section 5.3 and Section 5.4(a).
- (c) The proportionate share of any distribution to be made pursuant to either or both of Sections 5.4(a) and (b) for each Unit shall be determined by dividing such amount by the number of issued and outstanding Units on the applicable record date.

## **5.5 Character of Distributions and Designations**

In accordance with and to the extent permitted by the Tax Act, the Trustees in each year shall make designations in respect of the amounts payable to Unitholders for such amounts that the Trustees consider to be reasonable, including, without limitation, designations relating to taxable dividends received by the Fund in the year on shares of taxable Canadian corporations, net capital gains realized by the Fund in the year and foreign source Income of the Fund for the year. Distributions payable to Unitholders pursuant to this Article V shall be deemed to be distributions of Income of the Fund, Net Realized Capital Gains, trust capital or other items in such amounts as the Trustees shall determine in their absolute discretion.

## **5.6 Method of Payment of Distributions**

Where the Trustees determine that the Fund does not have available cash in an amount sufficient to make payment of the full amount of any distribution which has been declared to be payable pursuant to this Article V on the due date for such payment, the payment may, at the option of the Trustees, include the *pro rata* issuance of additional 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.

## **5.7 DRIP Program**

A Unitholder may elect to participate in the Fund's Distribution Reinvestment Plan (the "DRIP"), a copy of which is attached hereto as Schedule "A". The DRIP was established to provide eligible



holders of Trust Units with the opportunity to reinvest each cash distribution payable to such holders of Trust Units in the purchase of additional Trust Units, respectively, from the Trust at a price equal to the last valuation date preceding the date of each such distribution. A Unitholder who makes this election will have his or her cash distributions in respect of their Trust Units automatically reinvested in additional Trust Units of the same class, respectively. Annually, a Unitholder may elect to alter the manner in which distributions are paid to it. This DRIP allows Trust Unitholders to acquire additional Trust Units and no commissions, service charges or brokerage fees are payable in connection with the purchase and the Fund bears all of the administrative costs associated with the DRIP.

### **5.8 Withholding Taxes**

The Trustees may deduct or withhold from distributions payable to any Unitholder all amounts required by law to be withheld from such distribution and if necessary, to sell any property distributed in kind to enable the Trustees to comply with such withholding requirements.

### **5.9 Payments of Cash**

Any payments of cash by the Fund to a Unitholder is conclusively deemed to have been made by Electronic Funds Transfers (where such information of the Unitholder is available and current) or upon mailing of a cheque in a postage pre-paid envelope, addressed to the Unitholder at the Unitholder's address appearing in the register of Unitholders unless such cheque is dishonoured upon presentment. Upon such payment, the Fund shall be discharged from all liability to the Unitholder in respect of such payment except to replace any cheque which is lost or destroyed.

## **ARTICLE VI REDEMPTION OF UNITS**

### **6.1 Right of Redemption**

Each Unitholder shall be entitled to require the Fund to redeem, at any time or from time to time, at the demand of the Unitholder, all or any part of the Units registered in the name of the Unitholder at the prices determined and payable in accordance with the conditions set forth below. The Fund will settle payment with respect to any Redemptions requested at the end of each fiscal quarter period in with the notice of Redemption was received.

### **6.2 Exercise of Redemption Right**

To exercise a Unitholder's right to require redemption hereunder, a duly completed and properly executed notice requiring the Fund to redeem Units, in a form approved by the Trustees, must be sent to the Fund at least 90 days prior to the redemption being effective, together with the Unit Certificates representing the Units to be redeemed.

Upon receipt by the Fund of the notice to redeem Units, the Unitholder shall thereafter cease to have any rights with respect to the Units tendered for redemption (other than to receive the redemption payment therefor). Units shall be considered to be tendered for redemption on the date that the Fund has, to the satisfaction of the Trustees, received the notice, Unit Certificates and other required documents or evidence.

### 6.3 Cash Redemption

- (a) Upon receipt by the Trust of a notice to redeem Units in accordance with Section 6.2 and surrender of the relevant Unit Certificate, the Unitholder of the Units tendered for redemption will, subject to Section 6.5, be entitled to receive a price per Unit in cash calculated based on the net asset value of the Fund, as of December 31 for the year ending prior to the redemption, calculated in accordance with GAAP and adjusted for the after tax fair market value of the assets of the Fund (the "**Cash Redemption Price**"):
  - (i) For Class A Units, an amount equal to:
    - (A) within the first year of acquisition of the Class A Units, 90%;
    - (B) after the first year but before the second anniversary of acquisition of the Class A Units, 92.5%;
    - (C) after the second year but before the third anniversary of acquisition of the Class A Units, 95%; and
    - (D) after the third year anniversary of acquisition of the Class A Units, 100%;
 of the fair market value of the Class A Units at such fair market value as determined by the Trustees, in their sole discretion, as at the day such Class A Units are tendered for redemption.
  - (ii) For Class B Units, an amount equal to 100% of the fair market value of the Class B Units at such fair market value as determined by the Trustees, in their sole discretion, as at the day such Class B Units are tendered for redemption.
- (b) An administration fee in the sum equal to the lesser of (i) 10% of the redemption amount or (ii) \$400, shall be payable by the Unitholder to the Fund in order to cover the estimated administrative costs of the Redemption of any Class of Units.
- (c) Subject to Section 6.4 and Section 6.6, the Cash Redemption Price payable in respect of the Units surrendered for redemption will be satisfied by way of cash payment not later than the last business day of the month following the end of the fiscal quarter in which the Units are tendered for redemption. Payments made by the Trust of the Cash Redemption Price will be conclusively deemed to have been made upon Electronic Funds Transfers (where such information of the Unitholder is available and current) or by the mailing by the Trust of a cheque in a postage-prepaid envelope addressed to the former Unitholder at the former Unitholder's address appearing in the Register, unless such cheque is dishonoured upon presentment. Upon such payment, the Trust will be discharged from all liability to the former Unitholder in respect of the Units surrendered for redemption; provided, however, that if such cheque is lost or destroyed then, upon the presentation of evidence satisfactory to the Trustees of such loss or destruction, together with

such indemnity as the Trustees may reasonably require, the Trust will issue a replacement cheque to the former Unitholder.

#### **6.4 No Cash Redemption in Certain Circumstances**

Section 6.3 shall not be applicable to Units tendered for redemption by a Unitholder if the total amount payable by the Fund pursuant to Section 6.3 in respect of such Units and all other Units tendered for redemption prior thereto in the same fiscal quarter period exceeds 1.5% of the total amount of capital raised from the sale of Unit (the "Maximum Cash Redemption Amount"); provided that the Trustees may, in their sole discretion, waive such limitation in respect of any fiscal quarter period. Once this maximum has been achieved, redemptions will be funded with cash up to the Maximum Cash Redemption Amount on a pro rata basis, based on the total redemption amount of the Unitholders that have provided notice of redemption for the balance of that quarter and any Unitholders still wanting to redeem their Units will be required to serve a new notice requesting redemption in the following month, or the Trustees may elect to make payment by way of In Specie Redemption pursuant to section 6.6 below.

#### **6.5 Minimum Number of Unitholders on Redemption**

Notwithstanding any other provision of this Declaration of Trust, the Trustees shall be permitted to suspend a redemption of Class B Units for a period not to exceed one year from the receipt by the Fund of the notice of redemption contemplated in Section 6.2 herein, if, as a result of such redemption, there would be fewer than the minimum number of Unitholders required for the Trust to qualify as a "mutual fund trust" under the Tax Act, which number is currently 150 beneficial Unitholders of the Trust, each holding not fewer than 100 Units, such Units having an aggregate fair market value of not less than \$500. The Trustees may, however, permit such a redemption in part provided that such condition is maintained.

#### **6.6 In Specie Redemption**

In the event Section 6.4 applies, a Unitholder shall, instead of the Cash Redemption Price per Unit specified in Section 6.3, be entitled to receive the In Specie Redemption Price which shall be paid and satisfied by way of the issuance of a thirty six month term unsecured promissory note representing an indebtedness equal to the In Specie Redemption Price. The In Specie Redemption Price payable in respect of Units tendered for redemption during any fiscal quarter period shall be paid by the issuance to the order of the Unitholder who exercised the right of redemption, on the last day of the calendar month following the fiscal quarter in which the Units were tendered for redemption (the "**Transfer Date**"), of a thirty six month term unsecured promissory note. Such unsecured promissory notes will bear a market interest rate as determined by the Trustees. Upon delivery of any such unsecured promissory notes, the Fund shall be discharged from all liability to the former Unitholder in respect of the Units so redeemed except for any indebtedness represented by the unsecured promissory note.

#### **6.7 Cancellation of Certificates for all Redeemed Units**

All certificates representing Units which are redeemed under this Article VI shall be cancelled and such Units shall no longer be outstanding.

## **6.8 Redemption**

The Trustees may, in their sole discretion, require any Unitholder to redeem any or all Units held by the Unitholder after giving five (5) Business Days prior written notice to the Unitholder. If the Trustees send such a notice, the notice must specify the number of Units to be redeemed. Any redemption made pursuant to this Section 6.8 shall be made at the Cash Redemption Price as contemplated by Section 6.3. Upon receipt of notice by the Unitholder and payment of the Cash Redemption Price, the Unitholder shall cease to have any rights with respect to the Units being redeemed.

## **ARTICLE VII TRUSTEES**

### **7.1 Number of Trustees**

The Trustees shall consist of not less than three (3) and no more than five (5) Trustees, with the number of Trustees from time to time within such range being fixed by resolution of the existing Trustees. The Initial Trustees under this Declaration of Trust shall be Justin Bobier, Carol Oxtoby and John Kozole.

### **7.2 Multiple Trustees**

The following provisions shall govern the actions of such Trustees:

(a) **Calling and Notice of Meetings**

Meetings of the Trustees shall be called and held at such time and at such place as the Trustees, the Chairman of the Trustees or any two Trustees may determine, and any one Trustee or officer of the Fund may give notice of meetings when directed or authorized by such Persons. Notice of each meeting of the Trustees shall be given to each Trustee not less than 24 hours before the time when the meeting is to be held, provided that if a quorum of Trustees is present, the Trustees may, without notice, hold a meeting immediately following an annual meeting of Unitholders. Notice of a meeting of the Trustees may be given verbally, in writing or by telephone, fax or other means of communication. A notice of a meeting of Trustees need not specify the purpose of or the business to be transacted at the meeting. Notwithstanding the foregoing, the Trustees may, by resolution, from time to time fix a day or days in any month or months for regular meetings of the Trustees at a place and hour to be named, in which case, provided that a copy of such resolution is sent to each Trustee forthwith after being passed and forthwith after each Trustee's appointment, no other notice shall be required for any such regular meeting.

(b) **Place of Meetings**

Meetings of the Trustees may be held at any place in Canada. A Trustee who attends a meeting of Trustees, in person, by telephone or by videoconference, is deemed to have consented to the location of the meeting except when the Trustee attends the meeting for the express purpose of objecting to the

transaction of any business on the grounds that the meeting is not lawfully held.

(c) Meetings by Telephone or Videoconference

With the consent of the chairman of the meeting or a majority of the other Trustees present at the meeting, a Trustee may participate in a meeting of the Trustees or of a committee of the Trustees by means of telephone or other communication facilities, provided that a majority of the Trustees are physically present within Canada at such time, and provided that all persons participating in the meeting are able to hear each other. A Trustee participating in such a meeting in such manner shall be considered present at the meeting and at the place of the meeting. If all Trustees participate in the meeting by telephone or other communication facilities, and provided a majority of the Trustees are then physically present in Canada, then the meeting shall be deemed to have taken place in the City of Calgary, in the Province of Alberta.

(d) Quorum

The quorum for the transaction of business at any meeting of the Trustees shall consist of the greater of two Trustees or a majority of the number of Trustees then holding office, and, notwithstanding any vacancy among the number of Trustees a quorum of Trustees may exercise all of the powers of the Trustees.

(e) Chairman

The chairman of any meeting of the Trustees shall be the Trustee present at the meeting who holds the office of Chairman of the Trustees or if such person is not present, the Trustees present shall choose one of their number to be chairman.

(f) Action by the Trustees

At all meetings of the Trustees, every question shall be decided by a majority of the votes cast on the question. In the case of equality of votes, the chairman of the meeting shall be entitled to a second or casting vote. The powers of the Trustees may be exercised by resolution passed at a meeting at which a quorum is present or by resolution in writing signed by all Trustees who would be entitled to vote on that resolution at a meeting of the 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.

(g) Adjourned Meeting

Any meeting of Trustees may be adjourned from time to time by the chairman of the meeting with the consent of the meeting to a fixed time and place. Further notice of the adjourned meeting need not be given. The adjourned meeting shall be duly constituted if a quorum is present and if it is held in

accordance with the terms of the adjournment. If there is not a quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated upon its adjournment.

(h) Remuneration and Expenses

Each Trustee shall be paid remuneration for their services quarterly in the sum equal to \$1,500 per formal meeting plus 0.25% of the total Contributions managed by the Trustees annually (the "Trustee Remuneration Amount"), measured as at the last day of the fiscal year in issue. The Trustees shall determine how to allocate the Trustee Remuneration Amount as amongst them, and in the absence of a majority agreement, then it shall be allocated equally amongst them. The Trustee Remuneration Amount shall be paid by issuance of Class A units plus cash for any fractional units owing unless otherwise determined by a majority of the Trustees. The Trustees shall also be entitled to be reimbursed for reasonable traveling and other expenses properly incurred by them in attending meetings of the Trustees or any committee thereof or in connection with their services as Trustees.

(i) Officers

The Trustees may from time to time appoint one or more officers of the Fund, including, without limitation, a Chairman of the Trustees, and, without prejudice to rights under any employment contract, may remove any officer of the Fund. The powers and duties of each officer of the Fund shall be those determined from time to time by the Trustees and, in the absence of such determination, shall be those usually applicable to the office held.

**ARTICLE VIII  
APPOINTMENT, RESIGNATION AND REMOVAL OF TRUSTEES**

**8.1 Qualification of Trustees**

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

- (a) anyone who is less than 18 years of age;
- (b) anyone who is of unsound mind and has been found so by a court anywhere in Canada or elsewhere;
- (c) a person who is not an individual; and
- (d) a person who has the status of a bankrupt.

No more than one-third of the Trustees at any time may be non-residents of Canada as defined in the Tax Act.

## 8.2 Election and Appointment of Trustees

The Initial Trustees are hereby appointed as the initial Trustees of the Fund to act in such capacity until such time as they cease to hold office, are removed or their successor are elected or appointed in accordance with the terms hereof. Except as otherwise provided in this Declaration of Trust, 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, in each case to act in such capacity until such time as they cease to hold office, are removed or their successors are elected or appointed in accordance with the terms hereof. Any such election (other than by the Initial Trustees) 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 11.10. Notwithstanding Section 8.6, the Trustees may, between meetings of the Unitholders, appoint one or more additional Trustees for a term to expire (subject to further appointment) at the close of the next meeting of Unitholders.

## 8.3 Consent to Act

- (a) A person who is appointed a Trustee hereunder, other than the Initial Trustees, shall not become a Trustee until the person has, either before or after such appointment, executed and delivered to the Fund a consent substantially as follows:

To: Crystal Creek Homes Real Estate Mutual Fund Trust (the "**Fund**")

And to: The Trustee(s) thereof

The undersigned hereby consents to act as a Trustee of the Fund and hereby agrees, upon the later of the date of this consent and the date of the undersigned's appointment as a Trustee of the Fund, to thereby become a party, as a Trustee, to the Amended and Restated Declaration of Trust dated as of May 21, 2020, as amended from time to time, constituting the Fund.

Dated: \_\_\_\_\_

[Signature]

[Print Name]

- (b) Upon the later of a person being appointed a Trustee hereunder and executing and delivering to the Fund a consent substantially as set forth in subsection (a) above, 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 from time to time.

## 8.4 Ceasing to Hold Office

A Trustee ceases to hold office when:

- (a) he or she dies or resigns;
- (b) he or she is removed in accordance with Section 8.5;
- (c) he or she ceases to meet the qualifications as provided under Section 8.1; or
- (d) he or she ceases to be a Canadian resident, unless at the time he or she ceases to be a Canadian resident no more than one-third of the Trustees, including the Trustee which has ceased to be a Canadian resident, are non-residents of Canada as defined in the Tax Act.

A resignation of a Trustee becomes effective at the time a written resignation is sent to the other Trustees, or at the time specified in the resignation, whichever is later, provided that if; upon the resignation becoming effective, the number of remaining Trustees would be less than the number necessary to constitute a quorum for a meeting of Trustees, the resignation is not effective until the resigning Trustee's successor is duly appointed as a Trustee.

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 Fund to the Trustee and to the benefits of the indemnity provided in Section 9.8.

#### **8.5 Removal of Trustee**

The Unitholders of the Fund may remove any Trustee from office by an extraordinary resolution approved by not less than 75% of the votes cast at a meeting of Unitholders called for that purpose. A vacancy created by the removal of a Trustee may be filled at the meeting of Unitholders at which the Trustee is removed or, if not so filled, may be filled as set forth in Section 8.6.

#### **8.6 Filling Vacancies**

A quorum of Trustees may fill a vacancy among the Trustees, except a vacancy resulting from an increase in the number of Trustees or from a failure to elect the minimum number of Trustees fixed by or pursuant to this Declaration of Trust. If there is not a quorum of Trustees, or if there has been a failure to elect the minimum number of Trustees required by or pursuant to this Declaration of Trust, the Trustees then in office shall forthwith call a special meeting of Unitholders to fill the vacancy and, if they fail to call a meeting or if there are no Trustees then in office, the meeting may be called by any Unitholder. A Trustee appointed to fill a vacancy holds office, subject to Section 8.5, until the close of the next annual meeting of the Unitholders.

#### **8.7 Validity of Acts**

An act of a Trustee is valid notwithstanding an irregularity in the appointment of the Trustee or a defect in the qualifications of the Trustee.



**ARTICLE IX  
CONCERNING THE TRUSTEE**

**9.1 Powers and Authorities of the Trustees**

In addition to any other powers and authorities conferred by this Declaration of Trust or which the Trustees may have by virtue of any present or future statute or rule of law, a Trustee without any action or consent by the Unitholders, shall have, and may exercise at any time and from time to time, the following powers and authorities which may or may not be exercised by the Trustees in their sole judgment and discretion and in such manner and upon such terms and conditions as he may from time to time determine proper:

- (a) to supervise the activities and manage the investments and affairs of the Fund;
- (b) to maintain records and provide reports to Unitholders;
- (c) to effect payment of distributions to the Unitholders;
- (d) to invest any and all funds and monies of the Fund in the manner set forth in Article IV;
- (e) to possess and exercise all the rights, powers and privileges pertaining to the ownership of any Securities comprising the Fund Assets to the same extent that an individual might, unless otherwise limited herein, and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or actions generally or for any particular meeting or action and may include the exercise of discretionary power;
- (f) subject to Section 9.2, to sell, transfer, assign and convey, for and on behalf of the Unitholders, all or any portion of the Fund Assets on such terms and conditions as the Trustees shall deem to be in the best interests of the Unitholders;
- (g) where reasonably required, to engage or employ on behalf of the Fund any Persons as agents, representatives, employees or independent contractors (including, without limitation, investment advisors, registrars, underwriters, accountants, lawyers, appraisers, brokers or otherwise) in one or more capacities;
- (h) except as prohibited by law, to delegate any of the powers and duties of the Trustees to any one or more agents, representatives, officers, employees, independent contractors or other persons without liability to the Trustees, except as provided in this Declaration of Trust;

- (i) to collect, sue for and receive all sums of money coming due to the Fund, and to engage in, intervene in, prosecute, join, defend, compromise, settle, abandon or adjust, by arbitration or otherwise, any actions, suits, disputes, claims, demands or other litigation or proceedings, regulatory or judicial, relating to the Fund, the assets of the Fund or the Fund's affairs, to enter into agreements therefor, whether or not any suit or proceeding is commenced or claim asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- (j) to cause legal title to any of the Fund Assets to be held by and/or in the name of the Trustees or, except as prohibited by law, by and/or in the name of the Fund or any other custodian or Person, on such terms, in such manner, with such powers in such Person as the Trustees may determine and with or without disclosure that the Unitholders, the Fund or a Trustee is interested therein; provided, however, that should legal title to any of the Fund Assets be held by and/or in the name of any Person or Persons other than the Trustees, the Trustees shall require such Person or Persons to execute a trust agreement acknowledging that legal title to such assets is held in trust for the benefit of the Unitholders;
- (k) without limit as to amount, to borrow money or otherwise obtain credit in the name of the Fund from time to time, from any Person for the purpose of carrying out the business or any other purposes of the Fund and for such purpose to draw, make, execute and issue loan agreements, promissory notes, debentures, convertible debentures, notes or similar debt securities and other negotiable and non-negotiable instruments and evidences of indebtedness (any or all of which may contain limitations or restrictions on payments, transfers, distributions or dispositions);
- (l) without limit as to amount, to lend funds to any Persons including, without limitation, any Person in which the Fund directly or indirectly holds an interest, in such manner and for such purposes as have been and may be approved and determined to be in the best interests of the Unitholders by the Trustees;
- (m) to guarantee, indemnify or act as a surety with respect to the payment or performance of any indebtedness, liability or obligation of any kind of any Person including, without limitation, any Person in which the Fund directly or indirectly holds an interest;
- (n) to enter into any subordination, postponement or priority agreement on behalf of the Fund with any lender or creditor to any Person, including any Person in which the Fund directly or indirectly holds an interest, pursuant to which, among other things, the Fund may agree to subordinate and postpone its debt, security or any right to receive any income from any Person;
- (o) to charge, mortgage, hypothecate, pledge or assign on behalf of the Fund, or grant any security interest, lien or encumbrance over or with respect to, all or any portion of the currently owned or subsequently acquired Fund Assets for any purpose, including to secure any monies borrowed or other liabilities or obligations of the Fund or to secure any guarantee granted by the Fund;

- (p) to issue securities convertible into Units for such consideration and on such terms and conditions as he may deem appropriate;
- (q) to issue Units for such consideration as he may deem appropriate in their sole discretion, such issuance to be subject to the terms and conditions of this Declaration of Trust;
- (r) in addition to the mandatory indemnification provided for in Section 9.7 and to the extent permitted by law, to indemnify, or enter into agreements with respect to the indemnification of any person with whom the Fund has dealings;
- (s) without the approval or confirmation of Unitholders, enact and from time to time amend or repeal by-laws consistent with this Declaration of Trust containing provisions relating to the Fund, the Fund Assets and the conduct of the affairs of the Fund;
- (t) to pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Trustees in connection with the Fund Assets, or Income of the Fund, or imposed upon or against the Fund Assets, or Income of the Fund, or any part thereof; and to settle or compromise disputed tax liabilities, and for the foregoing purposes, to make such returns, take such deductions and make such designations, elections and determinations in respect of the Income of the Fund or Net Realized Capital Gains distributed to Unitholders in the year and any other matter as shall be permitted under the Tax Act (provided that to the extent necessary the Trustees will seek the advice of the Fund'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;
- (u) to vote in favour of the adoption by the Fund of a Unitholders' rights plan which plan will be effective as at the date of such adoption. Such Unitholders' rights plan shall terminate on the date which is six months from the date of such adoption unless ratified and confirmed by the Unitholders in accordance with this Declaration of Trust;
- (v) to make, execute, acknowledge and deliver any and all deeds, contracts, waivers, releases or other documents of transfer and any and all other instruments in writing necessary or proper for the accomplishment of any of the purposes of the Fund or any of the powers granted to the Trustees under the terms of this Declaration of Trust;
- (w) to use their best efforts to ensure that the Fund complies at all times with the requirements of the Tax Act including, without limitation, those provisions related to the Fund's qualifying as a "mutual fund trust" under the Tax Act; and
- (x) to do all such other acts and things as are incidental to the foregoing, and to exercise all powers which are necessary or useful to carry on the purpose and activities of the Fund, to promote any of the purposes for which the Fund is formed and to carry out the provisions of this Declaration of Trust.

## **9.2 Restrictions on Trustees' Powers**

Notwithstanding Section 9.1, the Trustees may not, at any time, under any circumstances whatsoever, authorize any sale, lease or exchange of all or substantially all of the Fund Assets, without the approval of the Unitholders by Special Resolution at a meeting of Unitholders called for that purpose or by resolution in writing.

## **9.3 Banking**

The banking activities of the Fund, or any part thereof 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.

## **9.4 Standard of Care and Duties**

The Trustees shall act honestly and in good faith with a view to the best interests of the Fund and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. The duties and standard of care of the Trustees provided as aforesaid are intended to be similar to, and not to be any greater than, those imposed on a director of a corporation governed by the *Business Corporations Act* (Alberta).

## **9.5 Fees and Expenses**

As part of the expenses of the Fund, the Trustees may pay or cause to be paid reasonable fees, costs and expenses incurred in connection with the administration and management of the Fund, including (without limitation) fees of auditors, accountants, lawyers, appraisers and other agents, consultants and professional advisors employed by or on behalf of the Fund and the cost of reporting or giving notices to Unitholders. All costs, charges and expenses properly incurred by the Trustees on behalf of the Fund shall be payable out of the Fund Assets.

## **9.6 Limitations on Liability of the Trustees**

The Trustees shall only be liable, answerable and accountable for their own actual fraud, dishonesty or gross negligence. Without limiting the generally of; and subject to, the foregoing, the Trustees shall not be liable for any loss or damage which may occur to the Fund Assets or any part thereof (including any Securities whose ownership interests are comprised directly or indirectly in the Fund Assets) or the income thereof at any time from any cause whatsoever, including:

- (a) the exercise or failure to exercise a discretion or power, or the refusal or failure to concur in the exercise of a discretion or power;
- (b) the failure to attend to, interfere with, or inquire into the management of Persons, the Securities which form part of the Fund Assets;
- (c) the reliance in good faith upon the opinion or advice of counsel as to the interpretation of this Declaration of Trust in any respect, or as to any other

issue that may arise.

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 Fund arising out of anything done or permitted or omitted to be done in respect to the affairs of the Fund. No property or assets of the Trustees owned in their personal capacity or otherwise, will be subject to any levy, execution or other enforcement procedure with regard to any obligations under this Declaration of Trust or under any other related agreements. No recourse may be had or taken, directly or indirectly, against the Trustees in their personal capacity or against any employee or agent of the Trustees or any successor of the Trustees. The Fund shall be solely liable therefor and resort shall be had solely to the Fund Assets for payment or performance thereof. In the exercise of the powers, authorities or discretion conferred upon the Trustees under this Declaration of Trust, the Trustees are and shall be conclusively deemed to be acting as Trustees of the Fund Assets.

#### **9.7 Indemnification of the Trustees**

The Trustees, shall be entitled to be and shall be indemnified and reimbursed out of the Fund Assets in respect of any and all taxes, penalties or interest in respect of unpaid taxes or other governmental charges imposed upon the Trustees in consequence of their 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 Trustees are made a party by reason of being or having been a Trustees or officer of the Fund or, at the request of the Fund, a director or officer of any direct or indirect subsidiary entity of the Fund; provided that the Trustees, former Trustees, officer or former officer shall not be indemnified out of the Fund Assets 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 of the actual fraud, dishonesty or gross negligence of the Trustees. The Trustees shall not be entitled to satisfy any right of indemnity or reimbursement granted herein, or otherwise existing under law, except out of the Fund Assets.

#### **9.8 Conflicts of Interest**

Where there is more than one Trustee and where a Trustee who is a party to, or is a Trustee, director or officer of or has a material interest in any Person who is a party to, a material contract or proposed material contract with the Fund (other than a material contract or proposed material contract with respect to the Initial Transaction) such Person shall disclose in writing to the Trustees the nature and extent of such interest, and shall not vote on any resolution to approve the contract. Provided a Trustee has disclosed the nature and extent of his or her interest and refrained from voting in the manner contemplated in this Section, such Trustee shall be permitted to continue to act as a Trustees of the Fund and shall not be subject to any liability to the Fund or the Unitholders with respect to such contract or proposed material contract as aforesaid.

The Trustees, Officers and management of the Fund are also the directors, officers and management of the General Partner of CCH Real Estate Limited Partnership, as well as the general partners of other limited partnerships or entities into which CCH Real Estate Limited Partnership may invest or loan funds.

The Trustees and other persons involved in the management of the Trust may:

- (a) own, operate or are engaged in and intend to continue to operate other businesses which invest in, and own commercial, industrial and residential real estate related assets, and will divide their time between the Trust, the general partners and other personal business interests and operations in which the Trust will not have an interest and which may be competitive with the activities of the Trust, or the CCH Real Estate Limited Partnership, and those limited partnerships into which it may, in turn, invest or loan funds;
- (b) control, and may during the life of the Trust, act as or on behalf of a manager, partner or joint venture in other ventures formed to acquire, own and operate real estate related assets, in which the Trust and the CCH Real Estate Limited Partnership may or will not have an interest, directly or indirectly, and which may be competitive with the activities of the Trust and the CCH Real Estate Limited Partnerships;
- (c) acquire, engage in or hold an interest (either alone or with others) in such other businesses, ventures, investments and activities ("Other Business") as they consider appropriate whether or not similar to or competitive with the business of the Trust and the CCH Real Estate Limited Partnership; and the Trust and the CCH Real Estate Limited Partnership shall not have any right in or to the Other Business and the Trust or the Limited Partnership shall not be entitled to any opportunity to acquire an interest in the Other Business;
- (d) directly or indirectly earn or receive a benefit in acting for or on behalf of a manager, partner, joint venture or otherwise engage with the Special Purpose LP's or be the holder, directly or indirectly of general partner or limited partnership units in the Special Purpose LP's into which funds will be invested or advanced by CCH Real Estate Limited Partnership; and
- (e) Assets or portions thereof may be purchased by and sold to the Special Purpose LPs, from the Trustees, or to directors, officers and management (or corporations related to them) of the Fund or the Limited Partnerships.

**Waiver:** Any Subscriber for Trust Units in the Trust hereunder agrees that the activities and facts as set forth above shall not constitute a conflict of interest or breach of fiduciary duty to the Trust, its beneficiaries, or the CCH Real Estate Limited Partnership and the Subscribers shall be deemed to consent to such activities. Any Subscriber further agrees that in relation to such activities, there is no obligation to account to the Trust or the CCH Real Estate Limited Partnership for any benefit or profit derived from any such activities or from any similar or competing activity or any transaction relating thereto by reason of any conflict of interest or the fiduciary relationship created by virtue of the position of the Trustees, directors, officers and management persons unless such activity is contrary to the express terms of this Trust Declaration or any of the material agreements into which such persona may enter into.

This in no way alters or detracts from the trustees, directors, officers and management to otherwise discharge their obligations in good faith and in compliance with their fiduciary obligations.

**ARTICLE X  
AMENDMENT**

**10.1 Amendment**

The provisions of this Declaration of Trust, except where specifically provided otherwise, may only be amended by Special Resolution; provided that the provisions of this Declaration of Trust may be amended by the Trustees without the consent, approval or ratification of the Unitholders or any other Person at any time for the purpose of:

- (a) ensuring continuing compliance with applicable laws (including the Tax Act), regulations, requirements or policies of any governmental authority having jurisdiction over the Trustees or the Fund;
- (b) providing, in the opinion of the Trustees, additional protection for the Unitholders;
- (c) removing any conflicts or inconsistencies in this Declaration of Trust or making minor corrections including the rectification of any ambiguities, defective provisions, errors, mistakes or omissions, which are, in the opinion of the Trustees, necessary or desirable and not prejudicial to the Unitholders;
- (d) making amendments which, in the opinion of the Trustees, are necessary or desirable to the interests of the Unitholders as a result of changes in taxation laws; or
- (e) for any purpose (except one in respect of which a vote by Unitholders is specifically otherwise required) if the Trustees are of the opinion that the amendment is not prejudicial to Unitholders and is necessary or desirable;

but, notwithstanding the foregoing, no such amendment shall modify the right to one vote per Unit or reduce the fractional undivided interest in the Fund Assets represented by any Unit without the consent of the holder of such Unit and no amendment shall reduce the percentage of votes required to be cast at a meeting of the Unitholders for the purpose of this Section 10.1 or alter the acquisition provisions of Section 12.11 without the consent of the holders of all of the Units then outstanding.

**ARTICLE XI  
MEETINGS OF UNITHOLDERS**

**11.1 Annual and Special Meetings of Unitholders**

The business transacted at meetings of Unitholders shall include the presentation of the consolidated unaudited financial statements of the Fund for the immediately preceding fiscal year, the appointment or removal of the Accountants for the ensuing year and the transaction of such other business as Unitholders may be entitled to vote upon as hereinafter provided or as the Trustees may determine. The chairman of any annual or special meeting shall be the one of the Trustees or, in the absence of any Trustees, any person appointed as chairman of the meeting by the Unitholders present. A meeting of the Unitholders may be called at any time by the Trustees

and shall be called by the Trustees upon a written request of Unitholders holding in the aggregate not less than 10% of the Units then outstanding, such request specifying the purpose or purposes for which such meeting is to be called.

### **11.2 Notice of Meetings**

Notice of any meeting of Unitholders shall be given by unregistered mail, postage prepaid, addressed to each Unitholder at his or her last address on the books of the Fund, mailed at least 14 days and not more than 21 days before a meeting. Such notice shall specify the time when, and the place where, such meeting is to be held and shall specify the nature of the business to be transacted at such meeting in sufficient detail to permit a Unitholder to form a reasonable judgment thereon, and set out the text of any Special Resolution proposed to be passed. Any adjourned meeting may be held as adjourned without further notice. The accidental omission to give notice or the non-receipt of such notice by a Unitholder shall not invalidate any resolution passed at any such meeting. Notwithstanding the foregoing, a meeting of Unitholders may be held at any time without notice if all the Unitholders are present or represented thereat or those not present or represented have waived notice. Any Unitholder (or a duly appointed proxy of a Unitholder) may waive any notice required to be given under the provisions of this section, and such waiver, whether given before or after the meeting, shall cure any default in the giving of such notice.

### **11.3 Quorum**

At any meeting of the Unitholders, except as hereinafter provided, a quorum shall consist of two (2) or more individuals present in person either holding personally or representing as proxies, in the aggregate, not less than 25% of the outstanding Units. In the event of such quorum not being present at the appointed place on the date for which the meeting is called within 30 minutes after the time fixed for the holding of such meeting, the meeting shall be terminated and, if otherwise called, 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 chairman of the meeting. If at such adjourned meeting a quorum as above defined is not present, the Unitholders present, either personally or by proxy shall form a quorum, and any business may be brought before or dealt with at such an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

### **11.4 Voting Rights of Unitholders**

Only Unitholders of record shall be entitled to vote and each Unit shall entitle the holder or holders of that Unit to one vote on a poll vote at any meeting of Unitholders. 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 vote, on which every person present and entitled to vote shall be entitled to one vote. At any meeting of Unitholders, any holder of Units entitled to vote thereat may vote by proxy and a proxy need not be a Unitholder, provided that no proxy shall be voted at any meeting unless it shall have been received by the Trustees for verification at least 24 hours prior to the commencement of such meeting. When any Unit is held jointly by more than one Person, 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 such Unitholder shall be deemed invalid and shall not be counted.



Unitholders may revoke a proxy by depositing an instrument in writing (which includes another proper form of proxy with a later date), at any time up to and including the last business day preceding the day of the meeting, or by depositing it with the chairman of the meeting on the day of the meeting.

### **11.5 Resolutions Binding the Trustees**

Unitholders shall be entitled to pass resolutions that will bind the Trustees or the Fund only with respect to the following matters:

- (a) the appointment or removal of a Trustee;
- (b) restructuring the powers of the Trustees;
- (c) amendments of this Declaration of Trust;
- (d) the appointment of an Inspector; and
- (e) the termination of the Fund.

Other than with respect to the above matters, no action taken by the Unitholders or any resolution of the Unitholders at any meeting shall in any way bind the Trustees. Any action taken or resolution passed in respect of any matter at a meeting of Unitholders shall be by Special Resolution, unless the contrary is otherwise expressly provided under any specific provision of this Declaration of Trust.

### **11.6 Meaning of "Special Resolution"**

- (a) The expression "**Special Resolution**" when used in this Declaration of Trust 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 held in accordance with the provisions of this Article at which two or more individuals are present in person either holding personally or representing as proxies, in the aggregate, not less than 25% of the number of Units then outstanding and passed by the affirmative votes of the holders of more than  $\frac{66}{100}$  of the Units represented at the meeting and voted on a poll upon such resolution.
- (b) If at any meeting at which a Special Resolution is proposed to be passed where the holders of 25% of the aggregate number of Units outstanding are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Unitholders, shall be dissolved, but in any other case it shall stand adjourned to such date, being not less than 10 and not more than 21 days later and to such place and time as may be appointed by the chairman of the meeting. Not less than 10 days prior notice shall be given of the time and place of such adjourned meeting. Such notice shall state that at the adjourned meeting the Unitholders present in person or by proxy shall form a quorum, but it shall not be necessary

to set forth the purposes for which the meeting was originally called or any other particulars. At the adjourned meeting, the Unitholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed by the requisite vote as provided in subsection (a) of this Section shall be a Special Resolution within the meaning of this Declaration of Trust, notwithstanding that the holders of less than 10% of the aggregate number of Units then outstanding might be present in person or by proxy at such adjourned meeting.

- (c) Votes on a Special Resolution shall always be given on a poll.

### **11.7 Meaning of "Outstanding"**

Every Unit issued, certified and delivered hereunder shall be deemed to be outstanding until it is cancelled or delivered to the Trustees 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 Fund or a direct or indirect wholly-owned subsidiary of the Fund, shall be disregarded.

### **11.8 Record Date for Voting**

For the purpose of determining the Unitholders who are entitled to vote or act at any meeting or any adjournment thereof; the Trustees may fix a date not more than 20 days and not less than 10 days prior to the date of any meeting of Unitholders as a record date for the determination of Unitholders entitled to vote at such meeting or any adjournment thereof. Any Unitholder who was a Unitholder at the time so fixed shall be entitled to vote at such meeting or any adjournment thereof even though the Unitholder has since that time disposed of its Units, except to the extent that the transferee of those Units produces properly endorsed Unit Certificates or otherwise establishes that it owns the Units, and demands, not later than 10 days before the meeting that its name be included in the list of Unitholders before the meeting, in which case the transferee will be entitled to vote such Units at the meeting. In the event that the Trustees do not fix a record date for any meeting of Unitholders, the record date for such meeting shall be the date upon which notice of the meeting is given.

### **11.9 Appointment of Inspector**

The Trustees shall call a meeting of Unitholders upon the written request of Unitholders holding in the aggregate not less than 25% of the Units then outstanding for the purpose of considering the appointment of an inspector to investigate the performance by the Trustees of their responsibilities and duties in respect of the Fund (the "**Inspector**"). An Inspector may be

appointed for such purpose, at the expense of the Fund, at such meeting by a resolution approved by a majority of the votes cast at the meeting.

#### **11.10 Resolutions in Writing**

Notwithstanding any other provision of this Declaration of Trust, a resolution in writing executed by Unitholders holding more than 66 2/3% of the outstanding Units at any time shall be as valid and binding for all purposes of this Declaration of Trust as if such Unitholders had exercised at that time all of the voting rights to which they were then entitled.

### **ARTICLE XII CERTIFICATES, REGISTRATION AND TRANSFER OF UNITS**

#### **12.1 Nature of Units**

The provisions of this Article XII 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 issuance of certificates evidencing the ownership of Units and the recording of all transactions in respect of Units and Unit Certificates. The Units shall be issued in the form of Unit Certificates.

#### **12.2 Unit Certificates**

- (a) Unit Certificates shall, subject to the provisions hereof; be in such form as is authorized from time to time by the Trustees, and may be held in electronic form or by way of global certificate held by a third party trustee on behalf of Unitholders;
- (b) Unit Certificates are issuable only in fully registered form;
- (c) the definitive form of the Unit Certificates shall:
  - (i) be in the English language;
  - (ii) be dated as of the date of issue thereof; and
  - (iii) contain such distinguishing letters and numbers as the Trustees shall prescribe;
- (d) each Unit Certificate shall be signed by the Trustees. 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.

#### **12.3 Contents of Unit Certificates**

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

- (a) the name of the Fund and the words "A trust created under the laws of the

Province of Alberta by a Declaration of Trust dated as of March 31, 2020, and amended and restated on May 21, 2020", or words of like effect;

- (b) the name of the Person to whom the Unit Certificate is issued as Unitholder;
- (c) the number of Units represented thereby and whether or not the Units represented thereby are fully paid;
- (d) that the Units represented thereby are transferable;
- (e) "The Units represented by this certificate are issued upon the terms and subject to the conditions of the Declaration of Trust, 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 Fund", or words of like effect; and
- (f) "For information as to personal liability of a Unitholder, see the reverse side of this certificate", or words of like effect.

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

- (a) "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 Fund or the obligations or the affairs of the Fund and all such persons shall look solely to the assets of the Fund for satisfaction of claims of any nature arising out of or in connection therewith and only the assets of the Fund shall be subject to levy or execution", or words of like effect; and
- (b) appropriate forms of notice of exercise of the right of redemption and of powers of attorney for transferring Units.

#### **12.4 Register of Unitholders**

The Register for the Units shall be kept at the head office of the Fund, which shall contain the names and addresses of the Unitholders, the respective numbers of Units held by them, the certificate numbers of the 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 of the Fund 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.

## **12.5 Limitation on Non-Resident Ownership**

At no time may non-residents of Canada within the meaning of the Tax Act ("non-residents") be the beneficial owners of more than 25% of the Units. The Trustees may require declarations as to the jurisdictions in which beneficial owners of the Units are resident. If the Trustees become aware, as a result of acquiring such declarations as to beneficial ownership, that the beneficial owners of 25% of the Units then outstanding are, or may be, non-residents or that such a situation is imminent, the Trustees may make a public announcement thereof and shall not accept a subscription for such Units from, or issue or register a transfer of such Units to, a person unless the Person provides a declaration in form and content satisfactory to the Trustees that the Person is not a non-resident. Notwithstanding the foregoing, if the Trustees determine that more than 25% of the Units are held by non-residents, the Trustees may send a notice to non-resident holders of the 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 more 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 and, in the interim, shall suspend the voting and distribution rights attached to such Units. Upon such sale, the affected holders shall cease to be holders of the relevant Units and their rights shall be limited to receiving the net proceeds of sale upon surrender of the certificates representing such Units. No liability shall accrue to the Fund or the Trustees if the Units of non-resident Unitholders are sold at a loss to such Unitholder. Unless and until the Trustees shall have been required to do so under the terms hereof; the Trustees shall not be bound to do or take any proceeding or action conferred on them hereby. The Trustees shall not be deemed to have notice of any violation hereunder of this unless and until he has been given written notice of such violation and shall act only as required by this Declaration of Trust once an indemnity is provided. The Trustees shall not be required to actively monitor the foreign holdings of the Fund. The Trustees shall not be liable for any violation of the non-resident ownership restriction which may occur during the term of the Fund.

## **12.6 Transfer of Units**

- (a) 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. No transfer of a Unit shall be recognized unless such transfer is of a whole Unit. Furthermore, no transfer of Units shall be recognized if, as a result of such transfer, the Fund would have fewer than 150 Unitholders.
- (b) Units shall be transferable on the register by the Unitholders 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 Fund 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. Upon such delivery the transfer shall be recorded on the register or branch transfer registers and a new certificate for the Units shall be issued to the transferee and a new

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

- (c) Any Person becoming entitled to any Units as a consequence of the death, bankruptcy or mental incompetence of any Unitholder, or otherwise by operation of law, shall be recorded as the holder of such Units and shall receive a new certificate therefor only upon production of evidence satisfactory to the Trustees and delivery of the existing certificate to the Trustees, but until such record is made the Unitholder of record shall continue to be and be deemed to be the holder of such Units for all purposes whether or not the Trustees shall have actual or other notice of such death or other event.
- (d) Unit Certificates representing any number of Units may be exchanged without charge for Unit Certificates representing an equivalent number of Units in the aggregate. Any exchange of Unit Certificates may be made at the offices of the Fund where registers are maintained for Unit Certificates. Any Unit Certificates tendered for exchange shall be surrendered to the Trustees and then shall be cancelled.

#### **12.7 Performance of Fund**

The Trustees and the Unitholders shall not be bound to be responsible for or otherwise inquire into or ensure the performance of any trust, express, implied or constructive, or of any pledge or equity to which any of the Units or any interest therein are or may be subject, or to ascertain or enquire whether any transfer of any such Units or interests therein by any such Unitholder or by his or her personal representatives is authorized by such trust, pledge, or equity, or to recognize any person as having any interest therein except for the person recorded as Unitholder.

#### **12.8 Lost Certificates**

In the event that any certificate for Units is lost, stolen, destroyed or mutilated, the Trustees may authorize the issuance of a new certificate for the same number of Units in lieu thereof. The Trustees may, in their discretion, before the issuance of such new certificate, require the owner of the lost, stolen, destroyed or mutilated certificate, or the legal representative of the owner, to make an affidavit or statutory declaration setting forth such facts as to the loss, theft, destruction or mutilation as the Trustees may deem necessary.

#### **12.9 Death of a Unitholder**

The death of a Unitholder during the continuance of the Fund shall not terminate the Fund or any of the mutual or respective rights and obligations created by or arising under this Declaration of Trust nor give such Unitholder's personal representatives a right to an accounting or take any action in court or otherwise against other Unitholders or the Trustees or the Fund Assets, but shall only entitle the personal representatives of the deceased Unitholder to demand and receive, pursuant to the provisions hereof; a new certificate for Units in place of the certificate held by the deceased Unitholder, and upon the acceptance thereof such personal representatives shall succeed to all rights of the deceased Unitholder under this Declaration of Trust.

## 12.10 Unclaimed Interest or Distribution

In the event that the Trustees shall hold any distributable amount which is unclaimed or which cannot be paid for any reason, the Trustees shall be under no obligation to invest or reinvest the same but shall only be obliged to hold the same in a current interest bearing account 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 interest or other distributable amount so held to the public Trustees (or other appropriate government official or agency) whose receipt shall be a good discharge and release of the Trustees.

## 12.11 Offers for Units

- (a) In this Section:
- (i) **"Dissenting Unitholder"** means a Unitholder who does not accept an Offer referred to in subsection (b) below and includes any assignee of the Unit of a Unitholder to whom such an Offer is made, whether or not such assignee is recognized under this Declaration of Trust;
  - (ii) **"Offer"** means an offer to acquire all of the outstanding Units where, as of the date of the offer to acquire, the Units that are subject to the offer to acquire, together with the Offeror's Units, constitute, in the aggregate, 20% or more of all outstanding Units;
  - (iii) **"offer to acquire"** includes an acceptance of an offer to sell;
  - (iv) **"Offeror"** means a Person, or two or more Persons acting jointly or in concert, who make an Offer;
  - (v) **"Offeror's Notice"** means the notice described in subsection (c) below; and
  - (vi) **"Offeror's Units"** means Units beneficially owned, or over which control or direction is exercised, on the date of an Offer by the Offeror, any Affiliate or Associate of the Offeror or any Person acting jointly or in concert with the Offeror.
- (b) If an Offer for all of the outstanding Units (other than Units held by or on behalf of the Offeror or an Affiliate or Associate of the Offeror) is made and by such Offer the Offeror agrees to be bound by the provisions of this Article and:
- (i) within the time provided in the Offer for its acceptance or within 30 days after the date the Offer is made, whichever period is the shorter, the Offer is accepted by Unitholders representing at least 90% of the outstanding Units, other than the Offeror's Units;
  - (ii) the Offeror is bound to take up and pay for, or has taken up and paid for, the Units of the Unitholders who accepted the Offer; and

(iii) the Offeror complies with subsections (c) and (e) below;

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

- (c) Where an Offeror is entitled to acquire Units held by Dissenting Unitholders pursuant to subsection (b) above, and the Offeror wishes to exercise such right, the Offeror shall send by registered mail within 30 days after the date of termination of the Offer a notice (the "**Offeror's Notice**") to each Dissenting Unitholder stating that:
- (i) Unitholders holding at least 90% of the Units, other than Offeror's Units, have accepted the Offer;
  - (ii) the Offeror is bound to take up and pay for, or has taken up and paid for, the Units of the Unitholders who accepted the Offer;
  - (iii) Dissenting Unitholders must transfer their respective Units to the Offeror on the terms on which the Offeror acquired the Units of the Unitholders who accepted the Offer within 21 days after the date of the sending of the Offeror's Notice; and
  - (iv) Dissenting Unitholders must send their respective Unit Certificate(s) representing Units to the Fund within 21 days after the date of the sending of the Offeror's Notice.
- (d) A Dissenting Unitholder to whom an Offeror's Notice is sent pursuant to subsection (c) above shall, within 21 days after the sending of the Offeror's Notice, send its Unit Certificate(s) representing Units to the Fund, duly endorsed for transfer.
- (e) Within 21 days after the Offeror sends an Offeror's Notice pursuant to subsection (c) above, the Offeror shall pay or transfer to the Trustees, or to such other Person as the Trustees may direct, the cash or other consideration that is payable to Dissenting Unitholders pursuant to subsection (b) above.
- (f) The Trustees shall hold in trust for the Dissenting Unitholders the cash or other consideration he receives under subsection (e) above. The Trustees shall deposit cash in a separate account in a Canadian chartered bank.
- (g) Within 30 days after the date of the sending of an Offeror's Notice pursuant to subsection (c) above, the Trustees, if the Offeror has complied with subsection (e) above, shall:
- (i) do all acts and things and execute and cause to execute all instruments as in the Trustees' opinion may be necessary or desirable to cause the transfer of the relevant Units of the Dissenting Unitholders to the Offeror;



- (ii) send to each Dissenting Unitholder who has complied with subsection (d) above, the consideration to which such Dissenting Unitholder is entitled under this Section; and
- (iii) send to each Dissenting Unitholder who has not complied with subsection (d) above, a notice stating that:
  - (A) his or her Units have been transferred to the Offeror;
  - (B) he is holding in trust the consideration for such Units; and
  - (C) the Trustees will send the consideration to such Dissenting Unitholder as soon as practicable after receiving such Dissenting Unitholders Certificate(s) or such other documents as the Trustees may require in lieu thereof;

and the Trustees are hereby appointed as the agent and attorney of the Dissenting Unitholders for the purposes of giving effect to the foregoing provisions.

- (h) Subject to applicable law, an Offeror cannot make an Offer for all of the outstanding Units unless, concurrent with the communication of the Offer to any Unitholder, a copy of the Offer is provided to the Fund.

## **12.12 Power of Attorney**

Each Unitholder hereby grants to the Trustees, a power of attorney constituting the Trustees with full power of substitution, as his or her true and lawful attorney to act on his or her behalf; with full power and authority in his or her name, place and stead, to execute, swear to, acknowledge, deliver, make or file or record when, as and where required:

- (a) this Declaration of Trust, any amendment to this Declaration of Trust and any other instrument required or desirable to qualify, continue and keep in good standing, the Fund as a mutual fund trust;
- (b) any instrument, deed, agreement or document in connection with carrying on the activities and affairs of the Fund as authorized in this Declaration of Trust;
- (c) all conveyances and other documents required in connection with the dissolution or liquidation of the Fund in accordance with the terms of this Declaration of Trust; and
- (d) any and all elections, determinations or designations whether jointly with third parties or otherwise, under the Tax Act or any other taxation or other legislation or similar laws of Canada or of any other jurisdiction in respect of the affairs of the Fund or of a Unitholder's interest in the Fund.

The power of attorney granted herein is irrevocable and will survive the death, disability or

bankruptcy of the Unitholder or the assignment by the Unitholder of all or part of his or her interest in the Fund and will extend to and bind the heirs, executors, administrators and other legal representatives and successors and assigns of the Unitholder.

### **ARTICLE XIII TERMINATION**

#### **13.1 Term of Fund**

Subject to the other provisions of this Declaration of Trust, the Fund shall continue in full force and effect so long as any property of the Trust is held by the Trustees, and the Trustees shall have all of the powers and discretions, expressed and implied, conferred upon them by law or this Declaration of Trust.

#### **13.2 Termination with the Approval of Unitholders**

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

#### **13.3 Automatic Termination**

If the Fund for any reason no longer holds any of the Fund Assets for a period greater than 30 days, the Trustees shall commence proceedings to wind-up the affairs of the Fund.

#### **13.4 Procedure Upon Termination**

Forthwith upon being required to commence to wind-up the affairs of the Fund, 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 register of Units of the fund shall be closed

#### **13.5 Powers of the Trustees Upon Termination**

After the date on which the Trustees are required to commence to wind-up the affairs of the Fund, the Trustees shall carry on no activities except for the purpose of winding-up the affairs of the Fund 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.

#### **13.6 Sale of Investments**

After the date referred to in Section 13.4, the Trustees shall proceed to wind-up the affairs of the Fund as soon as may be reasonably practicable and for such purpose shall, subject to any direction to the contrary in respect of a termination authorized hereunder, sell and convert into money the

Securities and all other assets comprising the Fund in one transaction or in a series of transactions at public or private sales and do all other acts appropriate to liquidate the Fund, and shall in all respects act in accordance with the directions, if any, of the Unitholders. If the Trustees is unable to sell all or any of the Securities or other assets which comprise part of the Fund Assets by the date set for termination, the Trustees may distribute the remaining Securities or other assets directly to the Unitholders in accordance with their *pro rata* share. Any Income of the Fund or Net Realized Capital Gains arising from the sale of such Securities shall be allocated, paid or made payable in accordance with Article V.

### **13.7 Distribution of Proceeds**

After paying, retiring or discharging or making provision for the payment, retirement or discharge of all known liabilities and obligations of the Fund and providing for indemnity against any other outstanding liabilities and obligations, the Trustees shall, subject to obtaining all necessary regulatory approvals, distribute the remaining part of the proceeds of the sale of the Securities and other assets together with any cash forming part of the Fund Assets among the Unitholders in accordance with section 3.1(f) herein..

### **13.8 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 14.4, 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 Fund Assets, 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.

### **13.9 Responsibility of the Trustees after Sale and Conversion**

The Trustees shall be under no obligation to invest the investments or other assets forming part of the Fund Assets after the date referred to in Section 13.4 and, after such sale, the sole obligation of the Trustees under this Declaration of Trust shall be to hold such proceeds in trust for distribution under Section 13.7.

## **ARTICLE XIV GENERAL**

### **14.1 Notices**

- (a) Any notice or other document required to be given or sent to Unitholders under this Declaration of Trust shall be given or sent through ordinary post addressed to each registered holder at his or her last address appearing on the register; provided that if there is a general discontinuance of postal service due to strike, lockout or otherwise, such notice may be given by publication twice in the Report on Business section of the National Edition of The Globe and Mail, the Financial Post section of the National Post 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 the city where the register is maintained. Any notice so given shall be deemed to have been given on the next day immediately following the day 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 Fund and shall be deemed to have been given on the date of delivery 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 fax or other means of prepaid, transmitted or recorded communication.

#### **14.2 Failure to Give Notice**

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

#### **14.3 Joint Holders**

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

#### **14.4 Service of Notice**

Any notice or document sent by post to or left at the address of a Unitholder pursuant to this Article shall, notwithstanding the death or bankruptcy of such Unitholder, and whether or not the Trustees has 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.

#### **14.5 Information Available to Unitholders**

Each Unitholder shall have the right to obtain, on demand and without any fee, from the head office of the Fund, a copy of this Declaration of Trust and any amendments thereto relating to Units held by that Unitholder and shall be entitled to inspect and, on payment of a reasonable fee therefor and after delivering to the Trustees a statutory declaration stating the name and address, or the address for service (if not an individual), of the Person requiring the Trustees to furnish the list of Unitholders and that the list will not be used except in connection with (a) an effort to influence the voting of the Unitholders; (b) an offer to acquire Units; or (c) any other matter relating to the Units or the affairs of the Trust, obtain a list of the Unitholders for purposes

connected with the Fund.

#### **14.6 Income Tax: Obligations of the Trustees**

The Trustees shall satisfy, perform and discharge all obligations and responsibilities of the Trustees under the Tax Act and neither the Fund nor the Trustees shall be accountable or liable to any Unitholder by reason of any act or acts of the Trustees consistent with any such obligations or responsibilities.

#### **14.7 Income Tax: Election**

In respect of the first taxation year of the Fund, the Fund shall elect, pursuant to subsection 132(6.1) of the Tax Act, that the Fund be deemed a mutual fund trust for the entire year.

#### **14.8 Income Tax: Deductions**

The Trustees shall claim the maximum deductions available to the Fund or such lesser amounts as the Trustees may determine to be in the best interests of the Unitholders for the purposes of computing its income pursuant to the provisions of the Tax Act to the extent required to reduce the taxable income of the Fund to nil.

#### **14.9 Fiscal Year**

The fiscal year of the Fund shall end on December 31 of each year.

#### **14.10 Financial Disclosure**

The Fund will send to Unitholders within 180 days of the end of each fiscal year of the Fund, the audited annual consolidated financial statements of the Fund for the fiscal year ended immediately prior to such annual meeting, together with comparative financial statements for the preceding fiscal year, if any. Such financial statements shall be prepared in accordance with generally accepted accounting principles in Canada as recommended from time to time in the Handbook of the Canadian Institute of Chartered Accountants; provided that such statements may vary from such principles to the extent required to comply with applicable securities laws or securities regulatory requirements or to the extent permitted by applicable securities regulatory authorities.

#### **14.11 Unitholder Meeting Information**

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

- (a) a form of proxy which can be used by a Unitholder to appoint a proxy, who need not be a Unitholder, to attend and act at the meeting on behalf of the Unitholder, in the manner and to the extent authorized by the proxy; and
- (b) all information required by applicable laws and this Declaration of Trust.

**14.12 Taxation Information**

Within the time required under the Tax Act, the Fund will provide to Unitholders who received distributions from the Fund in the prior calendar year, such information and forms as may be needed by such Unitholders in order to complete their tax returns in respect of the prior calendar year under the Tax Act and equivalent provincial legislation in Canada.

**ARTICLE XV  
ACCOUNTANTS****15.1 Qualification of Accountants**

The Accountants shall be an independent recognized firm of chartered accountants which has an office or offices in one or more of the provinces or territories of Canada.

**15.2 Reports of Accountants**

The Accountants shall provide annual financial statements of the Fund to each Unitholder at least once in each year.

**ARTICLE XVI  
MISCELLANEOUS****16.1 Successors and Assigns**

The provisions of this Declaration of Trust shall enure to the benefit of, and be binding upon, the parties and their heirs, executors, administrators, personal representatives, successors and assigns.

**16.2 Counterparts**

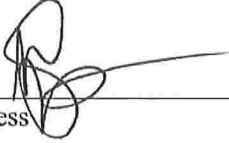
This Declaration of Trust may be executed by the parties in counterparts and may be delivered by facsimile, and all such counterparts shall together constitute one and the same instrument.

[rest of page intentionally blank]

**16.3 Severability**


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.

**IN WITNESS WHEREOF** the Initial Trustees and the Settlor have executed this Amended and Restated Declaration of Trust effective May 21, 2020.

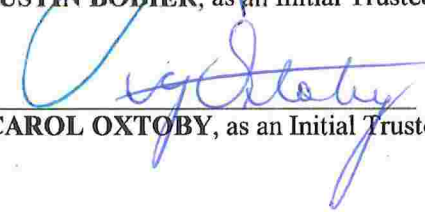
  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
**DONNA BOBIER**, as Settlor

  
\_\_\_\_\_  
Witness

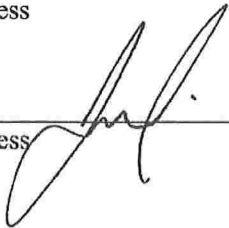
  
\_\_\_\_\_  
**JUSTIN BOBIER**, as an Initial Trustee


  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
**CAROL OXTOBY**, as an Initial Trustee

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**JOHN KOZOLE**, as an Initial Trustee

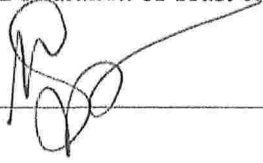
  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
**MICHAEL SLAPMAN**, as Initial Unitholder

**16.3 Severability**

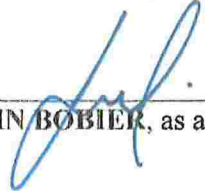
If any provision of this Declaration of Trust shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction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

**IN WITNESS WHEREOF** the Initial Trustees and the Settlor have executed this Amended and Restated Declaration of Trust effective May 21, 2020.

Witness 

  
DONNA BOBIER, as Settlor

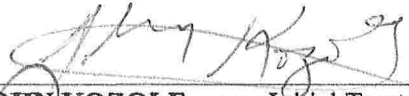
Witness 

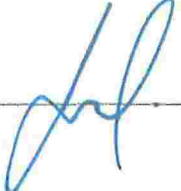
  
JUSTIN BOBIER, as an Initial Trustee

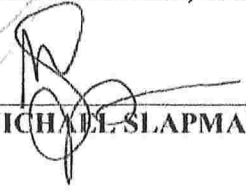
Witness \_\_\_\_\_

CAROL OXTOBY, as an Initial Trustee

Witness \_\_\_\_\_

  
JOHN KOZOLE, as an Initial Trustee

Witness 

  
MICHAEL SLAPMAN, as Initial Unitholder



**SCHEDULE "A"  
DRIP PROGRAM**

[SEE ATTACHED]