

**SLATE OFFICE REIT  
AND  
TSX TRUST COMPANY**

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**TRUST INDENTURE**

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**Providing for the Issue of Debentures**

**Dated January 26, 2018**

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**THIS INDENTURE** made as of the 26<sup>th</sup> day of January, 2018.

BETWEEN:

**SLATE OFFICE REAL ESTATE INVESTMENT TRUST,**  
an unincorporated, open-ended real estate investment trust constituted in accordance with  
the laws of the Province of Ontario  
(the “**REIT**”)

AND

**TSX TRUST COMPANY,**  
a trust company authorized to carry on business in all provinces of Canada  
(the “**Debenture Trustee**”)

**WHEREAS** the REIT deems it advisable for purposes of its undertaking to create and issue the Debentures to be created and issued in the manner hereinafter appearing;

**AND WHEREAS** the REIT, under the laws relating thereto and its Declaration of Trust, is duly authorized to create and issue the Debentures to be issued as herein provided;

**AND WHEREAS** all necessary steps in relation to the REIT have been duly enacted, passed and/or confirmed and other proceedings taken and conditions complied with to make the creation and issue of the Debentures proposed to be issued as provided in this Indenture, when certified by the Trustee and issued hereunder, legal, valid and binding obligations of the REIT with the benefits and subject to the terms of this Indenture;

**AND WHEREAS** the foregoing recitals are made as representations and statements of fact by the REIT and not by the Debenture Trustee;

**NOW THEREFORE** it is hereby covenanted, agreed and declared as follows:

## **ARTICLE 1**

### **INTERPRETATION**

#### **1.1 Definitions**

In this Indenture and in the Debentures, unless there is something in the subject matter or context inconsistent therewith, the expressions following shall have the following meanings, namely:

- (a) “**1933 Act**” means the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder;
- (b) “**Additional Debentures**” means Debentures of any one or more series, other than the first series of Debentures (being the Initial Debentures), issued under this Indenture;
- (c) “**Applicable Securities Legislation**” means applicable securities laws in each of the provinces and territories of Canada;
- (d) “**Authenticated**” means with respect to the issuance of an uncertificated Debenture, one in respect of which the Debenture Trustee has completed all

Internal Procedures such that the particulars of such uncertificated Debentures entered in the register of holders of Debentures, and “Authenticate”, “Authenticating” and “Authentication” have the appropriate correlative meanings;

- (e) **“Authorized Investments”** has the meaning ascribed thereto in Section 16.9;
- (f) **“Beneficial Holder”** means any person who holds a beneficial interest in a Global Debenture as shown on the books of the Depository or a Depository Participant;
- (g) **“Book-Entry Only System”** means the book-entry only securities transfer system administered by CDS in accordance with its operating rules and procedures in force from time to time;
- (h) **“Business Day”** means any day other than a Saturday, Sunday or any other day that the Debenture Trustee in Toronto, Ontario is not generally open for business;
- (i) **“CDS”** has the meaning ascribed thereto in Section 2.6(a);
- (j) **“Change of Control”** means the acquisition by any person, or group of persons acting jointly or in concert, of voting control or direction over an aggregate of 66⅔% or more of the outstanding Trust Units (on a fully-diluted basis);
- (k) **“Conversion Price”** means the dollar amount expressed in Canadian dollars for which each Trust Unit may be issued from time to time upon the conversion of Debentures or any series of Debentures which are by their terms convertible in accordance with the provisions of Article 6, and in the case of the Initial Debentures as described in Section 2.4(f);
- (l) **“Counsel”** means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Debenture Trustee and acceptable to the REIT, acting reasonably, or retained or employed by the REIT and acceptable to the Debenture Trustee, acting reasonably;
- (m) **“Current Market Price”** means the volume-weighted average trading price per Trust Unit on the TSX for the 20 consecutive trading days ending five trading days preceding the date of the applicable event (or, if the Trust Units are not listed thereon, on such stock exchange on which the Trust Units are listed as may be selected for such purpose by the Trustees, or if the Trust Units are not listed on any stock exchange, on the over-the-counter market; provided further that if the Trust Units are not then listed on any stock exchange or traded on any over-the-counter market, the Current Market Price shall be the fair market value of the Trust Units as at such date as determined by an independent nationally-recognized investment dealer selected by the REIT). The volume-weighted average trading price shall be determined by dividing the aggregate sale price of all Trust Units sold on the said exchange or market, as the case may be, during the said 20 consecutive trading days by the total number of Trust Units so sold;
- (n) **“Date of Conversion”** has the meaning ascribed thereto in Section 6.4(d);

- (o) **“Debenture Liabilities”** has the meaning ascribed thereto under Section 5.1;
- (p) **“Debenture Trustee”** means TSX Trust Company or its successor or successors for the time being as trustee hereunder;
- (q) **“Debentureholders”** or **“holders”** means the persons for the time being entered in the register for Debentures as registered holders of Debentures payable to a named payee or any transferees of such persons by endorsement or delivery;
- (r) **“Debentures”** means the debentures, notes or other evidence of indebtedness of the REIT issued and certified hereunder, or deemed to be issued and certified hereunder, including, without limitation, the Initial Debentures, and for the time being outstanding, whether in definitive or interim form;
- (s) **“Declaration of Trust”** means the amended and restated declaration of trust of the REIT dated as of March 21, 2016, as it may be further amended, supplemented or amended and restated from time to time;
- (t) **“deemed year”** has the meaning ascribed thereto in Section 2.11(b);
- (u) **“Defeased Debentures”** has the meaning ascribed thereto in Section 10.6(b);
- (v) **“Depository”** means, with respect to the Debentures of any series issuable or issued in the form of one or more Global Debentures, the person designated as depository by the REIT pursuant to Section 3.2 until a successor depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter **“Depository”** shall mean each person who is then a depository hereunder, and if at any time there is more than one such person, **“Depository”** as used with respect to the Debentures of any series shall mean each depository with respect to the Global Debentures of such series and, in the case of the Initial Debentures, the Depository shall initially be CDS Clearing and Depository Services Inc.;
- (w) **“Depository Participant”** means a broker, dealer, bank, other financial institution or other person for whom from time to time, a Depository effects book-entry for a Global Debenture deposited with the Depository;
- (x) **“Diluted Basis”** has the meaning ascribed thereto in Section 7.1(a);
- (y) **“Event of Default”** has the meaning ascribed thereto in Section 9.1;
- (z) **“Extraordinary Resolution”** has the meaning ascribed thereto in Section 14.12;
- (aa) **“Freely Tradeable”** means, in respect of trust units of any class in the capital of any trust or shares of any class in the capital of any corporation, trust units or shares, as the case may be, which: (i) are issuable without the necessity of filing a prospectus or any other similar offering document (other than such prospectus or similar offering document as has already been filed) under Applicable Securities Legislation and for which such issue does not constitute a distribution (other than a distribution already qualified by prospectus or similar offering document) under Applicable Securities Legislation; and (ii) can be traded by the holder thereof



without any restriction under Applicable Securities Legislation, such as hold periods, except in the case of a distribution by a control person (as interpreted within the meaning of Applicable Securities Legislation);

- (bb) **“Fully Registered Debentures”** means Debentures registered as to both principal and interest;
- (cc) **“Global Debenture”** means a Debenture that is issued to and registered in the name of the Depository, or its nominee, pursuant to Section 2.6 for purposes of being held by or on behalf of the Depository as custodian for participants in the Depository’s book-entry only registration system;
- (dd) **“Government Obligations”** means securities issued or guaranteed by the Government of Canada or any province or territory thereof;
- (ee) **“IFRS”** means International Financial Reporting Standards as issued by the International Accounting Standards Board and as adopted by the Canadian Institute of Chartered Accountants in Part I of The Canadian Institute of Chartered Accountants Handbook-Accounting, as amended from time to time;
- (ff) **“Indenture”, “hereto”, “herein”, “hereby”, “hereunder”, “hereof”** and similar expressions refer to this Indenture and not to any particular Article, Section, Subsection, clause, subdivision or other portion hereof and include any and every instrument supplemental or ancillary hereto, as the same may be amended, amended and restated or supplemented from time to time;
- (gg) **“Initial Debentures”** means the Debentures designated as “5.25% Convertible Unsecured Subordinated Debentures” and described in Section 2.4;
- (hh) **“Interest Account”** has the meaning ascribed thereto in Section 11.1(h);
- (ii) **“Interest Obligation”** means the obligation of the REIT to pay interest on the Debentures, as and when the same becomes due;
- (jj) **“Interest Payment Date”** means a date specified in a Debenture as the date on which an instalment of interest on such Debenture shall become due and payable;
- (kk) **“Internal Procedures”** means in respect of the making of any one or more entries to, changes in or deletions of any one or more entries in the register at any time (including, without limitation, original issuance or registration of transfer of ownership), the Debenture Trustee’s internal procedures customary at such time for the entry, change or deletion made to be completed under the operating procedures followed at the time by the Debenture Trustee;
- (ll) **“Legended Debentures”** means Debentures bearing the legend provided for in Section 2.14;
- (mm) **“Maturity Account”** means an account or accounts required to be established by the REIT (and which shall be maintained by and subject to the control of the Debenture Trustee) for each series of Debentures pursuant to and in accordance with this Indenture;

- (nn) **“Maturity Date”** has the meaning ascribed thereto in Section 2.4(b);
- (oo) **“Maturity Notice”** has the meaning ascribed thereto in Section 4.10(b), and in the case of the Initial Debentures means Schedule “C”;
- (pp) **“Non-Residents”** has the meaning ascribed thereto in Section 7.1(a);
- (qq) **“Offering Price”** is \$1,000 per Initial Debenture;
- (rr) **“Offering”** means the public offering by way of the Prospectus of \$25,000,000 aggregate principal amount of Initial Debentures and the grant of the Over-Allotment Option;
- (ss) **“Officer’s Certificate”** means a certificate of the REIT signed by any one authorized Trustee or officer of the REIT, on behalf of the REIT, in his or her capacity as a Trustee or officer of the REIT, as the case may be, and not in his or her personal capacity;
- (tt) **“Over-Allotment Option”** means the option granted to the underwriters to purchase up to an additional \$3,750,000 aggregate principal amount of Debentures to cover over-allotments, if any, and for market stabilization purposes;
- (uu) **“Periodic Offering”** means an offering of Debentures of a series from time to time, the specific terms of which Debentures, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the REIT upon the issuance of such Debentures from time to time;
- (vv) **“person”** includes an individual, corporation, company, partnership, joint venture, association, trust, trustee, unincorporated organization or government or any agency or political subdivision thereof;
- (ww) **“Prospectus”** means the prospectus supplement of the REIT dated January 19, 2018, together with the short form base shelf prospectus dated September 7, 2016 to which it relates, qualifying the distribution of, inter alia, the Initial Debentures in all provinces and territories of Canada and, unless the context otherwise requires, includes all documents incorporated therein by reference and any amendments thereto;
- (xx) **“Qualified Institutional Buyer”** means a “qualified institutional buyer” as defined in Rule 144A;
- (yy) **“Redemption Date”** has the meaning ascribed thereto in Section 4.3;
- (zz) **“Redemption Notice”** has the meaning ascribed thereto in Section 4.3 and in the case of the Initial Debentures means Schedule “B”;
- (aaa) **“Redemption Price”** means, in respect of a Debenture, the amount, plus accrued and unpaid interest, payable on the Redemption Date fixed for such Debenture,

which amount may be payable, in whole or in part, by the issuance of Freely Tradeable Trust Units as provided for in Section 4.6;

- (bbb) **“Regulation D”** means Regulation D under the 1933 Act;
- (ccc) **“Regulation S”** means Regulation S adopted by the United States Securities and Exchange Commission under the 1933 Act;
- (ddd) **“REIT”** means Slate Office REIT, an unincorporated, open-ended real estate investment trust constituted in accordance with the laws of the Province of Ontario and includes any successor to or of the REIT which shall have complied with the provisions of Article 12;
- (eee) **“REIT’s Auditors”** or **“Auditors of the REIT”** means an independent firm of chartered accountants duly appointed as auditors of the REIT;
- (fff) **“Response Bid”** has the meaning ascribed thereto in Section 11.1(b)(i);
- (ggg) **“Responsible Officer”** when used with respect to the Debenture Trustee, means any vice president, any assistant vice president, any senior trust officer or assistant trust officer, any trust officer, or any other officer associated with the corporate trust department of the Debenture Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such person’s knowledge of and familiarity with the particular subject;
- (hhh) **“Rule 144”** means Rule 144 under the 1933 Act;
- (iii) **“Rule 144A”** means Rule 144A under the 1933 Act;
- (jjj) **“SEDAR”** means the System for Electronic Document Analysis and Retrieval accessible online at [www.sedar.com](http://www.sedar.com);
- (kkk) **“Senior Creditor”** means a holder or holders of Senior Indebtedness and includes any representative or representatives or trustee or trustees of any such holder under any indenture pursuant to which any instruments evidencing any such Senior Indebtedness may have been issued;
- (lll) **“Senior Indebtedness”** means the principal of and the interest and premium (or any other amounts payable thereunder), if any, on:
  - (i) all indebtedness, liabilities and obligations of the REIT (other than the Initial Debentures), or of others (including, without limitation, any Subsidiary of the REIT) for payment of which the REIT is responsible or liable (whether absolutely or contingently), whether outstanding on the date of this Indenture or thereafter created, incurred, assumed or guaranteed in connection with the acquisition of any businesses, properties or other assets or for monies borrowed or raised by whatever means (including, without limitation, by means of commercial paper, bankers’ acceptances, letters of credit, debt instruments, bank debt and

financial leases, and any liability evidenced by bonds, debentures, notes or similar instruments); and

- (ii) renewals, extensions, restructurings, refinancings and refundings of any such indebtedness, liabilities or obligations; unless in each case it is provided by the terms of the instrument creating or evidencing such indebtedness, liabilities or obligations that such indebtedness, liabilities or obligations are not superior in right of payment to Debentures which by their terms are subordinated, which for greater certainty includes the Initial Debentures;
- (mmm) **“Senior Security”** means all mortgages, liens, pledges, charges (whether fixed or floating), security interests or other encumbrances of any kind, contingent or absolute, held by or on behalf of any Senior Creditor and in any manner securing any Senior Indebtedness;
- (nnn) **“Special Voting Units”** has the meaning ascribed thereto in the Prospectus;
- (ooo) **“Subsidiary”** means a subsidiary within the meaning of National Instrument 45-106 — *Prospectus Exemptions* as if “issuer” noted therein was replaced with “person” as defined herein;
- (ppp) **“Successor”** has the meaning ascribed thereto in Section 12.1;
- (qqq) **“Taxes”** means any local, domestic or foreign tax of any kind or nature whatsoever, any levy, impost, duty or other charge of a similar nature, and includes any sales tax, value-added tax, goods and services tax, transfer tax or withholding tax (including any penalty, interest, or addition to tax payable in connection with any of the foregoing).
- (rrr) **“Tax Act”** means the *Income Tax Act* (Canada) and the regulations thereunder, as amended from time to time;
- (sss) **“Time of Expiry”** means the time of expiry of certain rights with respect to the conversion of Debentures under Article 6 which is to be set forth for each series of Debentures which by their terms are to be convertible and, in the case of the Initial Debentures, means the time provided in Section 2.4(e);
- (ttt) **“trading day”** means, with respect to the TSX or other market for securities, any day on which such exchange or market is open for trading or quotation;
- (uuu) **“Trust Unit Bid Request”** means a request in the form directed by the REIT and accepted by the Trustees, for bids to purchase Trust Units (to be issued by the REIT on the Trust Unit Delivery Date) made by the REIT in accordance with the Trust Unit Interest Payment Election Notice and which shall make the acceptance of any bid conditional upon the acceptance of sufficient bids to result in aggregate proceeds from such issue and sale of Trust Units, together with the cash payments by the REIT in lieu of fractional Trust Units, if any, equal the Interest Obligation;

- (vvv) **“Trust Unit Delivery Date”** means a date, not more than 90 days and not less than one Business Day prior to the applicable Interest Payment Date, upon which Trust Units are issued by the REIT and delivered to the Debenture Trustee to facilitate the sale of Trust Units pursuant to Trust Unit Purchase Agreement (together with the cash payments by the REIT, if any, required to be made in order to pay in full the applicable Interest Obligation or portion thereof that is subject to the Trust Unit Interest Payment Election);
- (www) **“Trust Unit Interest Payment Election Amount”** means the sum of the amount of the aggregate proceeds resulting from the sale of Trust Units on the Trust Unit Delivery Date pursuant to acceptable bids obtained pursuant to the Trust Unit Bid Requests, together with any amount paid by the REIT in respect of fractional Trust Units pursuant to Section 11.1(j), that is equal to the aggregate amount of the Interest Obligation in respect of which the Trust Unit Interest Payment Election Notice was delivered;
- (xxx) **“Trust Unit Interest Payment Election”** means an election to satisfy an Interest Obligation on the applicable Interest Payment Date in the manner described in the Trust Unit Interest Payment Election Notice;
- (yyy) **“Trust Unit Redemption Right”** has the meaning ascribed thereto in Section 4.6(a);
- (zzz) **“Trust Units”** means trust units in the REIT (other than Special Voting Units), as such trust units are constituted on the date of execution and delivery of this Indenture; provided that in the event of a change or a subdivision, redivision, reduction, combination or consolidation thereof, any reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up, or such successive changes, subdivisions, redivisions, reductions, combinations or consolidations, reclassifications, capital reorganizations, consolidations, amalgamations, arrangements, mergers, sales or conveyances or liquidations, dissolutions or windings-up, then, subject to adjustments, if any, having been made in accordance with the provisions of Section 6.4., “Trust Units” shall mean, as the context so requires, the units or other securities or property resulting from such change, subdivision, redivision, reduction, combination or consolidation, reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up;
- (aaaa) **“Trust Unit Interest Payment Election Notice”** means a written notice made by the REIT to the Debenture Trustee specifying:
- (i) the Interest Obligation to which the election relates;
  - (ii) the Trust Unit Interest Payment Election Amount;
  - (iii) the investment banks, brokers or dealers through which the REIT shall seek bids to purchase the Trust Units and the conditions of such bids, which may include the minimum number of Trust Units, minimum price

per Trust Unit, timing for closing for bids and such other matters as the REIT may specify; and

- (iv) that the Debenture Trustee shall accept through such investment banks, brokers or dealers selected by the REIT only those bids which comply with such notice;
- (bbbb) **“Trust Unit Proceeds Investment”** has the meaning ascribed thereto in Section 11.1(h);
- (cccc) **“Trust Unit Purchase Agreement”** means an agreement in customary form among the REIT and the persons making acceptable bids pursuant to a Trust Unit Bid Request, which complies with all applicable laws, including the Applicable Securities Legislation and the rules and regulations of any stock exchange on which the Debentures or Trust Units are then listed;
- (dddd) **“Trust Unit Repayment Option”** has the meaning ascribed thereto in Section 4.10(a);
- (eeee) **“Trustees”** means the trustees of the REIT, from time to time, in their capacity as trustees of the REIT under the Declaration of Trust;
- (ffff) **“TSX”** means the Toronto Stock Exchange or its successor or successors;
- (gggg) **“U.S. Legend”** has the meaning ascribed thereto in Section 2.14(d);
- (hhhh) **“United States”** means the United States of America, its territories and possessions, any state of the United States and the District of Columbia; and
- (iiii) **“Written Direction of the REIT”** means an instrument in writing signed by any one Trustee or officer of the REIT.

## 1.2 Meaning of “Outstanding”

Every Debenture certified and delivered by the Debenture Trustee hereunder shall be deemed to be outstanding until it is cancelled, converted or redeemed or delivered to the Debenture Trustee for cancellation, conversion or redemption for monies, Trust Units and/or property, as the case may be, or the payment thereof shall have been set aside under Sections 2.4(k)(viii), 4.7 and 10.2, provided that:

- (a) Debentures which have been partially redeemed, purchased or converted shall be deemed to be outstanding only to the extent of the unredeemed, unpurchased or unconverted part of the principal amount thereof;
- (b) when a new Debenture has been issued in substitution for a Debenture which has been lost, stolen or destroyed, only the new Debenture shall be counted for the purpose of determining the aggregate principal amount of Debentures outstanding;
- (c) for the purposes of any provision of this Indenture entitling holders of outstanding Debentures to vote, sign consents, requisitions or other instruments

or take any other action under this Indenture, or to constitute a quorum at any meeting of Debentureholders, Debentures owned directly or indirectly, legally or equitably, by the REIT and any Subsidiary of the REIT shall be disregarded except that:

- (i) for the purpose of determining whether the Debenture Trustee shall be protected in acting and relying on any such vote, consent, requisition or other instrument or action, or on the Debentureholders present or represented at any meeting of Debentureholders, only the Debentures which the Debenture Trustee knows are so owned based solely on an Officer's Certificate detailing the particulars and registrations of any Debentures owned directly or indirectly, legally or equitably by the REIT or any Subsidiary of the REIT shall be so disregarded;
  - (ii) Debentures so owned which have been pledged in good faith other than to the REIT or a Subsidiary of the REIT shall not be so disregarded if the pledgee shall establish to the satisfaction of the Debenture Trustee the pledgee's right to vote such Debentures, sign consents, requisitions or other instruments or take such other actions in his or her discretion free from the control of the REIT or a Subsidiary of the REIT; and
- (d) Debentures so owned shall not be disregarded if they are the only Debentures outstanding.

### **1.3 Interpretation**

In this Indenture:

- (a) "this Indenture", "this Trust Indenture", "hereto", "herein", "hereby", "hereunder", "hereof" and similar expressions refer to this Indenture and not to any particular Article, Section, subsection, clause, subdivision or other portion hereof and include any and every instrument supplemental or ancillary hereto;
- (b) words importing the singular number or masculine gender shall include the plural number or the feminine or neuter genders, and vice versa;
- (c) all references to Articles and Schedules refer, unless otherwise specified, to articles of and schedules to this Indenture;
- (d) all references to Sections refer, unless otherwise specified, to sections, subsections or clauses of this Indenture;
- (e) words and terms denoting inclusiveness (such as "include" or "includes" or "including"), whether or not so stated, are not limited by and do not imply limitation of their context or the words or phrases which precede or succeed them; and
- (f) for greater certainty, this Indenture, as executed by the REIT, shall be conclusively taken to have been executed by an officer of the REIT on behalf of the Trustees only in their capacity as trustees of the REIT under the Declaration of Trust and, unless otherwise expressly provided herein, where any reference is



made in this Indenture or in any other instrument executed pursuant hereto or contemplated hereby to which the REIT is a party to the REIT as a party to this Indenture or any other agreement or to an act to be performed by or a covenant, representation or warranty given by the REIT, such reference shall be construed and applied for all purposes as if it referred to the Trustees, in their capacity as trustees.

#### **1.4 Headings Etc.**

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

#### **1.5 Day not a Business Day**

In the event that any day on or before which any action required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding day that is a Business Day.

#### **1.6 Applicable Law**

This Indenture and the Debentures shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as Ontario contracts.

#### **1.7 Jurisdiction**

Subject to the provisions of any supplemental indenture, the REIT agrees, and the Debenture Trustee agrees for itself and each Debentureholder, that any legal action or proceeding with respect to this Indenture or any supplemental indenture shall be brought by the Debenture Trustee or such Debentureholder (to the extent permitted hereunder) in the courts of the Province of Ontario, and such courts shall have exclusive jurisdiction to deal with all matters relating to the interpretation of, or enforcement of rights under this Indenture.

#### **1.8 Monetary References**

Whenever any amounts of money are referred to herein, such amounts shall be deemed to be in lawful money of Canada unless otherwise expressed.

#### **1.9 Invalidity, Etc.**

Any provision hereof which is prohibited or unenforceable shall be invalid only to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof.

#### **1.10 Language**

Each of the parties hereto hereby acknowledges that it has consented to and requested that this Indenture and all documents relating thereto, including, without limiting the generality of the foregoing, the form of Initial Debenture attached hereto as Schedule "A", be drawn up in the English language only. Les parties aux présentes ont exigé que la présente convention ainsi que



tous les documents et avis qui s'y rattachent et/ou qui en découleront soient rédigés en langue anglaise.

### **1.11 Successors and Assigns**

All covenants and agreements in this Indenture by the REIT shall bind its successors and assigns, whether expressed or not.

### **1.12 Benefits of Indenture**

Nothing in this Indenture or in the Debentures, express or implied, shall give to any person, other than the parties hereto and their successors hereunder, any paying agent, the Debentureholders, the Trustees and (to the extent provided in Sections 1.13 and 9.11) the holders of Trust Units, any benefit or any legal or equitable right, remedy or claim under this Indenture.

### **1.13 Limitation of Liability**

Each of the parties hereto acknowledges the obligations of the REIT under this Indenture and that such obligations will not be personally binding upon, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, the private property (including, without limitation, any property consisting of or arising from a distribution of any kind or nature by the REIT) of any of the Trustees, holders of Trust Units or Special Voting Units, and officers, employees, agents or annuitants or beneficiaries of any plan of which a holder of Trust Units or Special Voting Units acts as trustee or carrier, of the REIT, but the property of the REIT or a specific portion thereof only shall be bound.

## **ARTICLE 2 THE DEBENTURES**

### **2.1 Limit of Debentures**

Subject to the limitation in respect of the Initial Debentures set out in Section 2.4, the aggregate principal amount of Debentures authorized to be issued under this Indenture is unlimited; provided, however, that Debentures may be issued only upon and subject to the conditions and limitations herein set forth.

### **2.2 Terms of Debentures of any Series**

The Debentures may be issued in one or more series. There shall be established herein or in or pursuant to one or more indentures supplemental hereto, prior to the initial issuance of Debentures of any particular series:

- (a) the designation of the Debentures of the series (which need not include the term “**Debentures**”), which shall distinguish the Debentures of the series from the Debentures of all other series;
- (b) any limit upon the aggregate principal amount of the Debentures of the series that may be certified and delivered under this Indenture (except for Debentures certified and delivered upon registration of, transfer of, amendment of, or in exchange for, or in lieu of, other Debentures of the series pursuant to Sections 2.9, 2.10, 3.2(b), 3.3 and 3.6);

- (c) the date or dates on which the principal of the Debentures of the series is payable;
- (d) the rate or rates at which the Debentures of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable and on which a record, if any, shall be taken for the determination of holders to whom such interest shall be payable and/or the method or methods by which such rate or rates or date or dates shall be determined;
- (e) the place or places where the principal of and any interest on Debentures of the series shall be payable, the manner of such payment and where any Debentures of the series may be surrendered for registration of transfer or exchange;
- (f) the right, if any, of the REIT to redeem Debentures of the series, in whole or in part, at its option and the period or periods within which, the price or prices at which and any terms and conditions upon which, Debentures of the series may be so redeemed, pursuant to any sinking fund or otherwise, in whole or in part;
- (g) the obligation, if any, of the REIT to redeem, purchase or repay Debentures of the series pursuant to any mandatory redemption, sinking fund or analogous provisions, in whole or in part, or at the option of a holder thereof and the price or prices at which, the period or periods within which, the date or dates on which, and any terms and conditions upon which, Debentures of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligations;
- (h) if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which Debentures of the series shall be issuable;
- (i) subject to the provisions of this Indenture, any trustee, Depositories, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Debentures of the series;
- (j) any additional events of default or covenants with respect to the Debentures of the series;
- (k) whether and under what circumstances the Debentures of the series will be convertible into or exchangeable, in whole or in part, for securities of any person;
- (l) the form and terms of the Debentures of the series;
- (m) if applicable, that the Debentures of the series shall be issuable in whole or in part as one or more Global Debentures and, in such case, the Depository or Depositories for such Global Debentures in whose name the Global Debentures will be registered, and any circumstances other than or in addition to those set forth in Sections 2.9 and 3.2 or those applicable with respect to any specific series of Debentures, as the case may be, in which any such Global Debenture may be exchanged, in whole or in part, for Fully Registered Debentures, or transferred, in whole or in part, to and registered in the name of a person other than the Depository for such Global Debentures or a nominee thereof;

- (n) if other than Canadian currency, the currency in which the Debentures of the series are issuable;
- (o) any stock exchange on which the series of Debentures may be listed at the time of issuance; and
- (p) any other terms of the Debentures of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Debentures of any one series shall be substantially identical, except as may otherwise be established herein or by or pursuant to a resolution of the Trustees, an Officer's Certificate or in an indenture supplemental hereto. All Debentures of any one series need not be issued at the same time and may be issued from time to time, including pursuant to a Periodic Offering, consistent with the terms of this Indenture, if so provided herein, by or pursuant to such resolution of the Trustees, as evidenced by an Officer's Certificate or in an indenture supplemental hereto.

### 2.3 Form of Debentures

Except in respect of the Initial Debentures, the form of which is provided for herein, the Debentures of each series shall be substantially in such form or forms (not inconsistent with this Indenture) as shall be established herein or by or pursuant to one or more resolutions of the Trustees (as set forth in a resolution of the Trustees or to the extent established pursuant to, rather than set forth in, a resolution of the Trustees, in an Officer's Certificate detailing such establishment) or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any applicable law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or as may be required by the Depository or to conform with general usage, all as may be determined by the Trustees or officers of the REIT executing such Debentures, as conclusively evidenced by their execution of such Debentures. The form of the Debentures of each series shall state that the holder, by acceptance of the Debenture, assents to the terms and conditions upon which the Debentures are or are to be issued and held and the rights and remedies of holders of the Debentures and of the REIT and of the Debenture Trustee, all to the same effect as if the provisions of this Indenture were set forth in such Debenture.

### 2.4 Form and Terms of Initial Debentures

The first series of Debentures (the "**Initial Debentures**") authorized for issue immediately is limited to an aggregate principal amount of \$28,750,000, inclusive of the Over-Allotment Option, and shall be designated as "5.25% Convertible Unsecured Subordinated Debentures", and shall be subject to the following terms and conditions:

- (a) Date and Interest. The Initial Debentures shall be dated January 26, 2018 or the date of the closing of the Over-Allotment Option granted to the underwriters of the Offering, if applicable, and shall bear interest from, and including, January 26, 2018 at the rate of 5.25% per annum, payable semi-annually in arrears on February 28 and August 31 in each year commencing August 31, 2018, payable after as well as before maturity and after as well as before default, demand and judgment, with interest on amounts in default at the same rate, compounded

semi-annually. The first interest payment of \$31.21 per \$1,000 principal amount of Initial Debentures will include interest accrued from and including January 26, 2018 to but excluding August 31, 2018.

- (b) **Maturity.** The Initial Debentures shall mature on February 28, 2023 (“**Maturity Date**”).
- (c) **Redemption.** The Initial Debentures shall be redeemable by the REIT in accordance with the terms of Article 4, provided that the Initial Debentures shall not be redeemable prior to February 28, 2021, except upon the satisfaction of certain conditions after a Change of Control has occurred as outlined in Section 2.4(k). On and from February 28, 2021 and prior to February 28, 2022, the Debentures may be redeemed by the REIT, in whole at any time, or in part from time to time, at a price equal to the principal amount thereof plus accrued and unpaid interest on not more than 60 days’ and not less than 30 days’ prior written notice, provided that the Current Market Price on the date the Redemption Notice is given is not less than 125% of the Conversion Price. On and from February 28, 2022, and prior to the Maturity Date, the Initial Debentures may be redeemed by the REIT, in whole at any time or in part from time to time, at a price equal to the principal amount thereof plus accrued and unpaid interest on not more than 60 days’ and not less than 30 days’ prior written notice as provided for in Section 4.3. The Redemption Notice for the Initial Debentures shall be in the form of Schedule “B”.
- (d) **Priority.** The Initial Debentures will be subordinated to the Senior Indebtedness of the REIT in accordance with the provisions of Article 5.
- (e) **Conversion.** Upon and subject to the provisions and conditions of Article 6, the holder of each Initial Debenture shall have the right at such Debentureholder’s option, at any time prior to 5:00 p.m. (Toronto time) on the earliest of (i) the last Business Day before the Maturity Date; or (ii) if called for redemption, the Business Day immediately preceding the date specified by the REIT for the redemption of the Initial Debentures by notice to the holders of the Initial Debentures in accordance with Sections 2.4(c), 2.4(k)(iv) and 4.3 (the earlier of which will be the “Time of Expiry” for the purposes of Article 6 in respect of the Initial Debentures), to convert the whole, or in the case of a Debenture of a denomination in excess of \$1,000, any part which is \$1,000 or an integral multiple thereof, of the principal amount of such Debentures into Trust Units at the Conversion Price in effect on the Date of Conversion. Notwithstanding the foregoing, no Debenture may be converted on February 28 and August 31 in each year, or during the five Business Days preceding such dates, as the register of the Debenture Trustee will be closed during such periods.
- (f) **Conversion Price.** The Conversion Price in effect on the date hereof for each Trust Unit to be issued upon the conversion of Initial Debentures shall be equal to \$10.53 per Unit such that approximately 94.9668 Trust Units shall be issued for each \$1,000 principal amount of Initial Debentures so converted. The Conversion Price applicable to and the Trust Units, securities or other property receivable on the conversion of the Initial Debentures is subject to adjustment pursuant to the provisions of Section 6.5.

- (g) Payment of Principal Amount. On redemption or on maturity of the Initial Debentures, the REIT may, at its option and subject to the provisions of Sections 4.6 and 4.10 as applicable, and subject to regulatory approval, if any, elect to satisfy its obligation to pay, in whole or in part, the principal amount of the Initial Debentures which are to be redeemed or which have matured by issuing and delivering Freely Tradeable Trust Units to the Debentureholders. If the REIT elects to exercise such option, it shall deliver to the holders of the Initial Debentures a Redemption Notice in the form of Schedule “B” or a Maturity Notice in the form of Schedule “C”, as applicable.
- (h) Form of Debentures. The Initial Debentures shall be issued in denominations of \$1,000 and integral multiples of \$1,000 and the Debenture Trustee is hereby appointed as registrar and transfer agent for the Initial Debentures. Each certificate representing the Initial Debentures and the certificate of the Debenture Trustee endorsed thereon shall be issued in substantially the form set out in Schedule “A”, with such insertions, omissions, substitutions or other variations as shall be required or permitted by this Indenture, and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any applicable law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or as may be required by the Depository or to conform with general usage, all as may be determined by the Trustees or officers of the REIT executing such Initial Debenture in accordance with Section 2.7, as conclusively evidenced by their execution of an Initial Debenture. Each Initial Debenture shall additionally bear such distinguishing letters and numbers as the Debenture Trustee shall approve. Notwithstanding the foregoing, an Initial Debenture may be in such other form or forms as may, from time to time, be, approved by a resolution of the Trustees or as specified in an Officer’s Certificate. The Initial Debentures may be engraved, lithographed, printed, mimeographed or typewritten or partly in one form and partly in another.
- (i) Uncertificated Debentures. All Debentures will be issued in uncertificated form in accordance with this section 2.4(i):
- (i) Unless the Debentures cease to be eligible for CDS or otherwise, owners of beneficial interests in the Debentures shall not be entitled to have Debentures registered in their names, shall not receive or be entitled to receive certificates of the Debentures in definitive form and shall not be considered owners or holders thereof under this Indenture or any supplemental indenture except in circumstances where CDS resigns or is removed from its responsibility and the REIT is unable or does not wish to locate a qualified successor. Beneficial interests in the Debentures will be represented only through the Book-Entry Only System. Transfers of Debentures between CDS participants shall occur in accordance with CDS’ applicable rules and procedures.
  - (ii) No uncertificated Debenture shall be considered issued and shall be obligatory or shall entitle the holder thereof to the benefits of this Indenture until it has been Authenticated by entry on the register of the particulars of the uncertificated Debenture. Such entry on the register of

the particulars of an uncertificated Debenture shall be conclusive evidence that such uncertificated Debenture is a valid and binding obligation of the REIT and that the holder is entitled to the benefits of this Indenture. The Authentication by the Debenture Trustee of any Debentures whether by way of entry on the register or otherwise shall not be construed as a representation or warranty by the Debenture Trustee as to the validity of the Indenture or such Debentures (except the due Authentication thereof) or as to the performance by the REIT of its obligations under this Indenture and the Debenture Trustee shall in no respect be liable or answerable for the use made of the Debentures or any of them or the proceeds thereof.

- (iii) Neither the REIT nor the Debenture Trustee shall have any responsibility or liability for: (i) any aspects of the records relating to or payments made by CDS, or its nominee, on account of the beneficial interest in the Debentures; (ii) maintaining, supervising or reviewing any records relating to the Debentures; or (iii) any advice or representation made by or with respect to CDS relating to the rules governing CDS or any action to be taken by CDS or at the direction of a CDS participant.
- (iv) All references herein to actions by, notices given or payments made to the Debentureholders shall, where Debentures are held through CDS, refer to actions taken by, or notices given or payments made to, CDS upon instruction from the CDS participants in accordance with its rules and procedures in effect from time to time. For the purposes of any provision hereof requiring or permitting actions with the consent of or at the direction of the Debentures evidencing a specified percentage of the aggregate Debentures outstanding, such direction or consent may be given by the Debentureholders, including Debentureholders acting through CDS and the CDS participants, owning Debentures evidencing the requisite percentage of the Debentures. To the extent a Debentureholder holds Debentures through CDS, the rights of such Debentureholder shall be exercised only through CDS and the CDS participants and shall be limited to those established by law and agreements between such Debentureholders and CDS and/or the CDS participants or upon instructions from the CDS participants. Each of the Debenture Trustee and the REIT may deal with CDS for all purposes (including the making of payments) as the authorized representative of the respective Debentureholders and such dealing with CDS shall constitute satisfaction or performance, as applicable, of their respective obligations hereunder.
- (v) If the Book-Entry Only System is terminated by the REIT at its option, required to be terminated by applicable law or ceases to exist or CDS resigns or is removed from its responsibility as depository and the REIT is unable or does not wish to locate a qualified successor, CDS shall surrender the certificates representing the Debentureholder(s) to the Debenture Trustee with instructions for registration in the name(s) and in the amount(s) specified by CDS and the REIT shall issue and the Debenture Trustee shall certify and deliver the aggregate number of



Debentures then outstanding in the form of one or more definitive certificates of a Debenture representing such Debentures.

- (j) Interest Payment Election. Upon and subject to the provisions and conditions of Article 11, the REIT may elect, from time to time, to satisfy its Interest Obligation on the Initial Debentures on any Interest Payment Date by delivering Freely Tradeable Trust Units to the Debenture Trustee to facilitate sales, of such Freely Tradeable Trust Units, as the REIT shall direct in its absolute discretion for proceeds, which together with any cash payments to be made by the REIT in lieu of fractional Units, are sufficient to satisfy the REIT's Interest Obligations on the Initial Debentures.
- (k) Change of Control. Upon the occurrence of a Change of Control and subject to the provisions and conditions of this Section 2.4(k), the REIT will be required to make an offer to purchase the Initial Debentures. The terms and conditions of such offer are set forth below:
  - (i) Upon the occurrence of a Change of Control, the REIT will be required to make an offer in writing to purchase, in whole or in part, the Debentures then outstanding (the “**Offer**”), on a date (the “**Offer Date**”) which is not later than 30 days following the date upon which the REIT provides notice of the Change of Control to the Debenture Trustee as set out below, in accordance with the requirement of Applicable Securities Legislation, in lawful money of Canada at a price equal to 101% of the principal amount thereof (the “**Offer Price**”) plus accrued and unpaid interest up to, but excluding, the Offer Date (collectively, the “**Total Offer Price**”).
  - (ii) The REIT will, as soon as practicable, and in any event no later than ten Business Days after the occurrence of a Change of Control, give written notice to the Debenture Trustee of the Change of Control. The Debenture Trustee will, as soon as practicable thereafter, and in any event no later than two Business Days after receiving notice from the REIT of the Change of Control, provide written notice to the holders of Initial Debentures of the Change of Control (“**Change of Control Notice**”). The Change of Control Notice shall be prepared by the REIT and shall include (A) a description of the Change of Control; (B) details of the terms of the Offer; and (C) a description of the rights of the REIT to redeem untendered Initial Debentures in accordance with Section 2.4(k)(iii). A Debenture Holder, to accept the Offer, must deliver to the Debenture Trustee, not less than five business days prior to the Offer Date, written notice of the holder's acceptance of the Offer.
  - (iii) If 90% or more of the aggregate principal amount of Initial Debentures outstanding on the date the REIT provides the Change of Control Notice to the Debenture Trustee have been tendered for purchase pursuant to the Offer on the expiration thereof, the REIT shall have the right (but not the obligation) upon written notice provided to the Debenture Trustee within 10 days following the expiration of the Offer, to redeem all Initial Debentures remaining outstanding on the expiration of the Offer at the Total Offer Price (the “**90% Redemption Right**”).

- (iv) Upon receipt of written notice that the REIT has exercised the 90% Redemption Right and is acquiring the remaining Initial Debentures, the Debenture Trustee shall promptly provide written notice to all holders of Initial Debentures that did not previously accept the Offer that:
  - (A) the REIT has exercised the 90% Redemption Right and is purchasing all outstanding Initial Debentures effective on the expiry of the Offer at the Total Offer Price, and shall include a calculation of the amount payable to such holder as payment of the Total Offer Price;
  - (B) each such holder must transfer their Initial Debentures on the same terms as those holders that accepted the Offer and must send their respective Initial Debentures, duly endorsed for transfer, to the Debenture Trustee within 10 days after the sending of such notice; and
  - (C) the rights of such holders under the terms of the Initial Debentures and this Indenture shall cease to be effective as of the date of expiry of the Offer provided the REIT has, on or before the time of notifying the Debenture Trustee of the exercise of the 90% Redemption Right, paid the Total Offer Price to, or to the order of, the Debenture Trustee and thereafter the Initial Debentures shall not be considered to be outstanding and the holder shall not have any right except to receive the Total Offer Price upon surrender and delivery of such holder's Initial Debentures in accordance with the Indenture.
- (v) The REIT shall, on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the expiry of the Offer, deposit with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, by electronic funds transfer, such sums of money, as may be sufficient to pay the Total Offer Price of the Initial Debentures to be redeemed by the REIT on the expiry of the Offer. To the extent requested by the Debenture Trustee, the REIT shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be reasonably incurred by the Debenture Trustee in connection with such purchase and/or redemption, as the case may be. Every such deposit shall be irrevocable. From the sums so deposited, the Debenture Trustee shall pay or cause to be paid to the holders of such Initial Debentures, the Total Offer Price to which they are entitled on the REIT's purchase or redemption.
- (vi) In the event that one or more of such Initial Debentures being purchased in accordance with this Section 2.4(k) becomes subject to purchase in part only, upon surrender of such Initial Debentures for payment of the Total Offer Price, the REIT shall execute and the Debenture Trustee shall certify and deliver without charge to the holder thereof or upon the holder's order, one or more new Initial Debentures for the portion of the principal amount of the Initial Debentures not purchased.



- (vii) Initial Debentures for which holders have accepted the Offer and Initial Debentures which the REIT has elected to redeem in accordance with the 90% Redemption Right shall become due and payable at the Total Offer Price on the date of expiry of the Offer, in the same manner and with the same effect as if it were the date of maturity specified in such Initial Debentures, anything therein or herein to the contrary notwithstanding, and from and after such date of expiry of the Offer, if the money necessary to purchase or redeem the Initial Debentures shall have been deposited as provided in this Section 2.4(k) and affidavits or other proofs satisfactory to the Debenture Trustee as to the publication and/or mailing of such notices shall have been lodged with it, interest on the Initial Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Debenture Trustee whose decision shall be final and binding upon all parties in interest
- (viii) In case the holder of any Initial Debenture to be purchased or redeemed in accordance with this Section 2.4(k) shall fail on or before the date of expiry of the Offer to surrender such holder's Initial Debenture or shall not within such time accept payment of the monies payable, or give such receipt therefor, if any, as the Debenture Trustee may require, such monies may be set aside in trust without interest, either in the deposit department of the Debenture Trustee or in a chartered bank (which may, but need not be, an affiliate of the Debenture Trustee), and such setting aside shall for all purposes be deemed a payment to the holder of such Initial Debenture of the sum so set aside and, to that extent, the Initial Debenture shall thereafter not be considered as outstanding hereunder and the holder of such Initial Debenture shall have no other right except to receive payment out of the monies so paid and deposited upon surrender and delivery of such holder's Initial Debentures. In the event that any monies required to be deposited hereunder with the Debenture Trustee or any depository or paying agent on account of principal, premium, if any, or interest, if any, on Initial Debentures issued hereunder shall remain so deposited for a period of six years from the date of expiry of the Offer, then such monies shall at the end of such period, upon the written request of the REIT, be paid over or delivered over by the Debenture Trustee or such depository or paying agent to the REIT, and thereupon the Debenture Trustee shall not be responsible to Debentureholders for any amounts owing to them, shall be released from all further liability with respect to such monies, and, subject to applicable law, thereafter the holder of such Initial Debenture in respect of which such monies was so repaid to the REIT shall have no rights in respect thereof except to obtain payment of the monies due from the REIT, subject to any limitation period provided by the laws of Ontario.
- (ix) Subject to the provisions above related to Initial Debentures purchased in part, all Initial Debentures redeemed and paid under this Section 2.4(k) shall forthwith be delivered to the Debenture Trustee and cancelled and no Initial Debentures shall be issued in substitution therefor.

- (x) The REIT will publicly announce the results of the purchases made pursuant to this Section 2.4(k) as soon as practicable, and in any event within 30 days, after the date of expiry of the Offer.
- (xi) The REIT will comply with all Applicable Securities Legislation in the event that the REIT is required to repurchase Initial Debentures pursuant to this Section 2.4(k).
- (l) The Debenture Trustee shall be provided with the documents and instruments referred to in Sections 2.5(b), 2.5(c) and 2.5(d) with respect to the Initial Debentures prior to the issuance of the Initial Debentures.
- (m) The REIT will take all reasonable steps and actions and do all such acts and things as may be required to: (i) maintain (as long as it meets the minimum listing requirements of such institution) the listing and posting for trading of the Initial Debentures on the TSX, and (ii) maintain its status as a reporting issuer in good standing under Applicable Securities Legislation; provided, however, that the foregoing covenant shall no longer apply to the REIT if the REIT participates in a *bona fide* transaction to which Article 12 would apply and, in connection with such transaction, the Initial Debentures cease to be listed and posted for trading on the TSX or the REIT ceases to be a reporting issuer in all or any of the provinces or territories of Canada.

## 2.5 Certification and Delivery of Additional Debentures

The REIT may from time to time request the Debenture Trustee to certify and deliver Additional Debentures of any series, including any Additional Debentures issued as Global Debentures, by delivering to the Debenture Trustee the documents referred to below in this Section 2.5 whereupon the Debenture Trustee shall certify such Additional Debentures and cause the same to be delivered in accordance with the Written Direction of the REIT referred to below or pursuant to such procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction of the REIT. The maturity date, issue date, interest rate (if any) and any other terms of the Additional Debentures of such series shall be set forth in or determined by or pursuant to such Written Direction of the REIT and such procedures. In certifying such Additional Debentures, the Debenture Trustee shall be entitled to receive and shall be fully protected in relying and acting upon, unless and until such documents have been superseded or revoked:

- (a) an Officer's Certificate and/or an executed supplemental indenture by or pursuant to which the form and terms of such Additional Debentures were established;
- (b) a Written Direction of the REIT requesting certification and delivery of such Additional Debentures and setting forth delivery instructions, provided that, with respect to Additional Debentures of a series subject to a Periodic Offering:
  - (i) such Written Direction of the REIT may be delivered by the REIT to the Debenture Trustee prior to the delivery to the Debenture Trustee of such Additional Debentures of such series for certification and delivery;
  - (ii) the Debenture Trustee shall certify and deliver Additional Debentures of such series for original issue from time to time, in an aggregate principal

amount not exceeding the aggregate principal amount, if any, established for such series, pursuant to a Written Direction of the REIT or pursuant to procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction of the REIT;

- (iii) the maturity date, or dates, issue date or dates, interest rate or rates (if any) and any other terms of Additional Debentures of such series shall be determined by an executed supplemental indenture or by Written Direction of the REIT or pursuant to such procedures; and
  - (iv) if provided for in such procedures, such Written Direction of the REIT may authorize certification and delivery pursuant to oral or electronic instructions from the REIT which oral or electronic instructions shall be promptly confirmed in writing (for greater certainty, the Debenture Trustee shall not be obligated to accept oral or electronic instructions unless it is satisfied, in its sole discretion, with the procedures therefor).
- (c) an opinion of Counsel to the REIT addressed to the Debenture Trustee, in form and substance satisfactory to the Debenture Trustee, acting reasonably, to the effect that all legal requirements imposed by this Indenture or by law in connection with the proposed issue of Additional Debentures have been complied with, subject to the delivery of certain documents or instruments specified in such opinion; and
- (d) an Officer's Certificate certifying that the REIT is not in default under this Indenture, that the terms and conditions for the certification and delivery of Additional Debentures (including those set forth in Section 16.5), have been complied with subject to the delivery of any documents or instruments specified in such Officer's Certificate and that no Event of Default exists or will exist upon such certification and delivery.

## **2.6 Issue of Global Debentures**

- (a) The REIT may specify that any Debentures of a series are to be issued in whole or in part as one or more Global Debentures registered in the name of a Depository, or its nominee, designated by the REIT in the Written Direction of the REIT delivered to the Debenture Trustee at the time of issue of such Debentures, and in such event the REIT shall execute and the Debenture Trustee shall certify and deliver one or more Global Debentures that shall:
- (i) represent an aggregate amount equal to the principal amount of the outstanding Debentures of such series to be represented by one or more Global Debentures;
  - (ii) be delivered to such Depository or pursuant to such Depository's instructions; and
  - (iii) bear such legend as may be required by such Depository and legends substantially to the following effect:

“This Debenture is a Global Debenture within the meaning of the Indenture herein referred to and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture certified and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.”

“Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. (“CDS”) to Slate Office REIT or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & CO., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & CO. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & CO., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate.”

- (b) Each Depository designated for a Global Debenture must, at the time of its designation and at all times while it serves as such Depository, be a clearing agency registered or designated under the securities legislation of the jurisdiction in which the Depository has its principal offices.

## **2.7 Execution of Debentures**

All Debentures shall be signed (either manually or by facsimile signature) by any one authorized Trustee or officer of the REIT, holding office at the time of signing. A facsimile signature upon a Debenture shall for all purposes of this Indenture be deemed to be the signature of the person whose signature it purports to be. Notwithstanding that any person whose signature, either manual or in facsimile, appears on a Debenture as a Trustee or officer may no longer hold such office at the date of the Debenture or at the date of the certification and delivery thereof, such Debenture shall be valid and binding upon the REIT and entitled to the benefits of this Indenture.

## **2.8 Certification**

No Debenture shall be issued or, if issued, shall be valid for any purpose or shall entitle the holder to the benefits of this Indenture, until it has been manually certified by or on behalf of the Debenture Trustee substantially in the form set out in this Indenture, in the relevant supplemental indenture, or in some other form approved by the Debenture Trustee. Such certification on any Debenture shall be conclusive evidence that such Debenture is duly issued, is a valid obligation of the REIT and the holder is entitled to the benefits hereof.

The certification of the Debenture Trustee on the Debentures, or interim Debentures hereinafter mentioned, shall not be construed as a representation or warranty by the Debenture Trustee as to the validity of this Indenture or of the Debentures or interim Debentures or as to the performance of the REIT of its obligations under this Indenture and the Debenture Trustee shall in no respect be liable or answerable for the use made of the Debentures or interim Debentures or any of them

or the proceeds thereof. The certification of the Debenture Trustee on the Debentures or interim Debentures shall, however, be a representation and warranty by the Debenture Trustee that the Debentures or interim Debentures have been duly certified by or on behalf of the Debenture Trustee pursuant to the provisions of this Indenture.

## **2.9 Interim Debentures or Certificates**

Pending the delivery of definitive Debentures of any series to the Debenture Trustee, the REIT may issue and thereupon the Debenture Trustee shall certify in lieu thereof interim Debentures in such forms and in such denominations and signed in such manner as provided herein, entitling the holders thereof to definitive Debentures of the series when the same are ready for delivery; or the REIT may execute and thereupon the Debenture Trustee shall certify a temporary Debenture for the whole principal amount of Debentures of the series then authorized to be issued hereunder and deliver the same to the Debenture Trustee and thereupon the Debenture Trustee may issue its own interim certificates in such form and in such amounts, not exceeding in the aggregate the principal amount of the temporary Debenture so delivered to it, as the REIT and the Debenture Trustee may approve entitling the holders thereof to definitive Debentures of the series when the same are ready for delivery; and, when so issued and certified, such interim or temporary Debentures or interim certificates shall, for all purposes but without duplication, rank in respect of this Indenture equally with Debentures duly issued hereunder and, pending the exchange thereof for definitive Debentures, the holders of the interim or temporary Debentures or interim certificates shall be deemed without duplication to be Debentureholders and entitled to the benefit of this Indenture to the same extent and in the same manner as though the said exchange had actually been made. Forthwith after the REIT shall have delivered the definitive Debentures to the Debenture Trustee, the Debenture Trustee shall cancel such temporary Debentures, if any, and shall call in for exchange all interim Debentures or certificates that shall have been issued and forthwith after such exchange shall cancel the same. No charge shall be made by the REIT or the Debenture Trustee to the holders of such interim or temporary Debentures or interim certificates for the exchange thereof. All interest paid upon interim or temporary Debentures or interim certificates shall be noted thereon as a condition precedent to such payment unless paid by cheque to the registered holders thereof.

## **2.10 Mutilation, Loss, Theft or Destruction**

In case any of the certificates representing Debentures issued hereunder shall become mutilated or be lost, stolen or destroyed, the REIT, in its discretion, may issue, and thereupon the Debenture Trustee shall certify and deliver, a new Debenture certificate upon surrender and cancellation of the mutilated Debenture certificate, or in the case of a lost, stolen or destroyed Debenture certificate, in lieu of and in substitution for the same, and the substituted Debenture certificate shall be in a form approved by the Debenture Trustee and shall be entitled to the benefits of this Indenture and rank equally in accordance with its terms with all other Debentures issued or to be issued hereunder and all rights under the replaced Debenture certificate shall terminate. In case of loss, theft or destruction the applicant for a substituted Debenture certificate shall furnish to the REIT and to the Debenture Trustee such evidence of the loss, theft or destruction of the Debenture as shall be satisfactory to them in their discretion and shall also furnish an indemnity and surety bond satisfactory to them in their discretion along with any other documents that might be required by the Debenture Trustee. The applicant shall pay all reasonable expenses incidental to the issuance of any substituted Debenture.

## **2.11 Concerning Interest**

- (a) All Debentures issued hereunder, whether originally or upon exchange or in substitution for previously issued Debentures which are interest bearing, shall bear interest (i) from and including their issue date, or (ii) from and including the last Interest Payment Date to which interest shall have been paid or made available for payment on the outstanding Debentures of that series, whichever shall be the later, or, in respect of Debentures subject to a Periodic Offering, from and including their issue date or from and including the last Interest Payment Date to which interest shall have been paid or made available for payment on such Debentures, in all cases, to but excluding the next Interest Payment Date. All interest shall accrue from day to day and shall be payable in arrears for the actual number of days lapsed in the relevant interest period.
- (b) Unless otherwise specifically provided in the terms of the Debentures of any series, interest for any period of less than six months shall be computed on the basis of a year of 365 days. Whenever interest is computed on a basis of a year (the “**deemed year**”) which contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.

## **2.12 Debentures to Rank Subordinate and *Pari Passu***

The Debentures will be direct unsecured obligations of the REIT. Each Debenture of the same series of Debentures will rank *pari passu* with each other Debenture of the same series (regardless of their actual date or terms of issue) and, subject to statutory preferred exceptions, with all other present and future subordinated and unsecured indebtedness of the REIT, except for sinking fund provisions (if any) applicable to different series of Debentures or other similar types of obligations of the REIT. The payment of the principal of, and interest on, the Debentures shall, as provided in Article 5, be subordinated in right of payment to all Senior Indebtedness (including all payments thereunder).

## **2.13 Payments of Amounts Due on Maturity**

Except as may otherwise be provided in any supplemental indenture in respect of any series of Debentures and subject to Section 4.10 hereof, payments of amounts due upon maturity of the Debentures will be made in the following manner. The REIT will establish and maintain with the Debenture Trustee a Maturity Account for each series of Debentures. Each such Maturity Account shall be maintained by and be subject to the control of the Debenture Trustee for the purposes of this Indenture. On or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to each maturity date for Debentures outstanding from time to time under this Indenture, the REIT will deliver by a wire or an electronic funds transfer, to the Debenture Trustee funds for deposit in the applicable Maturity Account in an amount sufficient to pay the cash amount payable in respect of such Debentures (including the principal amount, together with any accrued and unpaid interest thereon less any tax required to be deducted or withheld) provided the REIT may elect to satisfy this requirement by providing the Debenture Trustee with a certified cheque for such amounts required under this Section 2.13 post-dated to the applicable maturity date. The Debenture Trustee, on behalf of the REIT, will pay to each holder entitled to receive payment the principal amount of and premium (if any) and accrued and unpaid interest on



the Debenture, (less any tax required to be deducted or withheld) upon surrender of the Debenture at any branch of the Debenture Trustee designated for such purpose from time to time by the REIT and the Debenture Trustee. The delivery of such funds to the Debenture Trustee for deposit or the making available of such amounts to the applicable Maturity Account will satisfy and discharge the liability of the REIT for the Debentures to which the delivery of funds relates to the extent of the amount deposited or made available (plus the amount of any tax deducted or withheld as aforesaid and remitted to the proper authorities) and such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the money so deposited or made available the amount to which it is entitled.

## **2.14 U.S. Legend on the Debentures**

- (a) The parties hereby acknowledge and agree that the Debentures and any Trust Units issuable upon conversion thereof are “restricted securities” as defined in Rule 144 and may not be reoffered, or resold, pledged or otherwise transferred except: (i) to the REIT; (ii) outside the United States in accordance with Rule 904 under Regulation S; (iii) inside the United States in accordance with (A) Rule 144A to a person who the seller reasonably believes is a Qualified Institutional Buyer purchasing for its own account or for the account of a Qualified Institutional Buyer to whom notice is given that the offer, sale, pledge or transfer is being made in reliance on Rule 144A, or (B) the exemption from registration under the 1933 Act provided by Rule 144, if available; (iv) under another exemption from the registration requirements of the 1933 Act; or (v) under an effective registration statement under the 1933 Act, and, in each case, in accordance with any applicable state securities laws in the United States or securities laws of any other applicable jurisdiction.
- (b) The Debentures and any Trust Units issuable upon conversion thereof have not been and will not be registered under the 1933 Act or any U.S. state securities laws. All Debentures and any Trust Units issuable upon conversion thereof issued and sold in the United States in reliance on Rule 144A or Rule 506 of Regulation D, as well as all Debentures and any Trust Units issuable upon conversion thereof, in exchange for or in substitution of any of the foregoing securities, shall bear, unless otherwise directed by the REIT, the following legend (the “**U.S. Legend**”):

“THE SECURITIES REPRESENTED HEREBY AND THE SECURITIES ISSUABLE PURSUANT TO THE TERMS OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “**1933 ACT**”), OR U.S. STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING THESE SECURITIES, AGREES FOR THE BENEFIT OF SLATE OFFICE REIT (THE “**REIT**”) THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY: (A) TO THE REIT; (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE 1933 ACT (“**REGULATION S**”); (C) WITHIN THE UNITED STATES IN ACCORDANCE WITH (1) RULE 144A UNDER THE 1933 ACT, OR (2) RULE 144 UNDER THE 1933 ACT, IF AVAILABLE, AND IN COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS; (D) UNDER AN EFFECTIVE REGISTRATION

STATEMENT UNDER THE 1933 ACT; OR (E) IN ANOTHER TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE 1933 ACT OR ANY APPLICABLE U.S. STATE SECURITIES LAWS; PROVIDED THAT IN THE CASE OF TRANSFERS PURSUANT TO (C)(2) OR (E) ABOVE, A LEGAL OPINION SATISFACTORY TO THE REIT MUST BE PROVIDED.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE LISTED ON THE TORONTO STOCK EXCHANGE (“TSX”); HOWEVER, THE SAID SECURITIES CANNOT BE TRADED THROUGH THE FACILITIES OF THE TSX SINCE THEY ARE NOT FREELY TRANSFERABLE, AND CONSEQUENTLY ANY CERTIFICATE REPRESENTING SUCH SECURITIES IS NOT “GOOD DELIVERY” IN SETTLEMENT OF TRANSACTIONS ON THE TSX.

IF THE REIT IS A “FOREIGN ISSUER” WITHIN THE MEANING OF REGULATION S AT THE TIME OF TRANSFER, A NEW CERTIFICATE, BEARING NO LEGEND, DELIVERY OF WHICH WILL CONSTITUTE “**GOOD DELIVERY**” IN SETTLEMENT ON STOCK EXCHANGES IN CANADA, MAY BE OBTAINED FROM TSX TRUST COMPANY, AS REGISTRAR AND TRANSFER AGENT FOR THESE SECURITIES, OR SUCH OTHER ORGANIZATION OR ENTITY PERFORMING SUCH FUNCTION FOR THE REIT (THE “**TRANSFER AGENT**”) UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE TRANSFER AGENT AND THE REIT, AND, IF SO REQUIRED BY THE TRANSFER AGENT, AN OPINION OF COUNSEL OF RECOGNIZED STANDING REASONABLY SATISFACTORY TO THE REIT TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S.”.

- (c) Notwithstanding the foregoing, if the Debentures are being sold (i) under Section 2.14(a) (ii) above at a time when the REIT is a “foreign issuer” as defined in Rule 902 of Regulation S, the U.S. Legend may be removed by providing a duly completed and signed declaration to the Debenture Trustee, as debenture trustee for the Debentures, or to the Transfer Agent, as registrar and transfer agent for the Trust Units issuable upon conversion of the Debentures, as the case may be, to the effect set forth in Schedule “D” attached hereto, or in such other form as the Debenture Trustee or the Transfer Agent, as the case may be, or the REIT may from time to time prescribe, or (ii) under Section 2.14(a) (iii)(B) or (v) above, the U.S. Legend may be removed by delivery to the Debenture Trustee or to the Transfer Agent, as the case may be, of an opinion of counsel of recognized standing in form and substance reasonably satisfactory to the REIT, acting reasonably, to the effect that the U.S. Legend is no longer required under applicable requirements of the 1933 Act or U.S. state securities laws.
- (d) Prior to the issuance of the Debentures, the REIT shall notify the Debenture Trustee, in writing, concerning which Debentures are to bear the U.S. Legend. The Debenture Trustee will thereafter maintain a list of all registered holders from time to time of Legended Debentures.



## 2.15 Payment of Interest

The following provisions shall apply to Debentures, except as otherwise provided in Section 2.4(a) or elsewhere in this Indenture or specified in a resolution of the Trustees, an Officer's Certificate or a supplemental indenture relating to a particular series of Additional Debentures:

- (a) As interest becomes due on each Debenture (except on conversion, at maturity or on redemption, when interest may at the option of the REIT be paid upon surrender of such Debenture) the REIT, either directly or through the Debenture Trustee or any agent of the Debenture Trustee, shall send or forward a cheque by prepaid ordinary mail, wire, electronic transfer of funds or such other means as may be agreed to by the Debenture Trustee, payment of such interest (less any tax required to be deducted or withheld therefrom) to the order of the registered holder of such Debenture appearing on the registers maintained by the Debenture Trustee at the close of business on the fifth Business Day prior to the applicable Interest Payment Date and addressed to the holder at the holder's last address appearing on the register (or in the case of joint holders, to such address of one of the joint holders), unless such holder otherwise directs. If payment is made by cheque, such cheque shall be forwarded as soon as practicable following the date on which interest becomes due and if payment is made by other means (such as wire or electronic transfer of funds, provided the Debenture Trustee must receive confirmation of its receipt of funds prior to being required to electronically transfer funds to holders), such payment shall be made in a manner whereby the holder receives credit for such payment on the date such interest on such Debenture becomes due. The mailing of such cheque or the making of such payment by other means shall, to the extent of the sum represented thereby, plus the amount of any tax deducted or withheld as aforesaid and remitted to the proper authorities, satisfy and discharge all liability for interest on such Debenture, unless in the case of payment by cheque, such cheque is not paid at par on presentation. In the event of non-receipt of any cheque for or other payment of interest by the person to whom it is so sent as aforesaid, the REIT will issue to such person a replacement cheque or other payment for a like amount upon being furnished with such evidence of non-receipt as it shall reasonably require and upon being indemnified to its satisfaction. Notwithstanding the foregoing, if the REIT is prevented by circumstances beyond its control (including, without limitation, any interruption in mail service) from making payment of any interest due on each Debenture in the manner provided above, the REIT may make payment of such interest or make such interest available for payment in any other manner acceptable to the Debenture Trustee with the same effect as though payment had been made in the manner provided above. If payment is made through the Debenture Trustee, by 11:00 a.m. (Toronto time) at least one Business Day prior to each Interest Payment Date or to the date of mailing the cheques for the interest due on an Interest Payment Date, whichever is earlier, the REIT shall deliver sufficient funds to the Debenture Trustee by wire or electronic transfer or make such other arrangements for the provision of funds as may be agreeable between the Debenture Trustee and the REIT in order to effect such interest payment hereunder. The Debenture Trustee shall disburse such interest payments only upon receiving, at least one Business Day prior to each such date, funds in an amount sufficient for the interest payment.

- (b) Notwithstanding Section 2.15(a), if a series of Debentures or any portion thereof is represented by a Global Debenture, then all payments of interest (less any tax required to be deducted or withheld therefrom) on the Global Debenture shall be made by wire, electronic funds transfer or cheque made payable to the Depository or its nominee for subsequent payment to Beneficial Holders of interests in that Global Debenture, unless the REIT and the Depository otherwise agree. None of the REIT, the Debenture Trustee or any agent of the Debenture Trustee for any Debenture issued as a Global Debenture will be liable or responsible to any person for any aspect of the records related to or payments made on account of beneficial interests in any Global Debenture or for maintaining, reviewing, or supervising any records relating to such beneficial interests.

For greater certainty, if the amount (or any portion thereof) to which a holder of the Debentures is entitled is subject to withholding taxes, the Debenture Trustee, based on direction of the REIT, shall remit such taxes on behalf of the REIT to the proper authorities within the period of time prescribed for this purpose under applicable laws.

## **2.16 Withholding Rights and Obligations**

For greater certainty, and notwithstanding any other provision of this Indenture, the REIT, either directly or through the Debenture Trustee, will be entitled to deduct and withhold any and all amounts which it is required or permitted to deduct or withhold under any applicable law in respect of taxes, including without limitation any such amount in respect of applicable taxes or similar charges (including interest, penalties or similar amounts in respect thereof) imposed or levied by or on behalf of the Government of Canada or of any province or territory thereof or any authority or agency therein or thereof having power to tax, including pursuant to the Tax Act, from any payment to be made on or in connection with the Debentures and, provided that the REIT or the Debenture Trustee, as the case may be, remits such withheld amount to the relevant government, authority or agency, the amount of any such deduction or withholding will be considered an amount paid in satisfaction of the REIT's obligations under the Debentures. The foregoing provisions shall apply *mutatis mutandis* to any amounts payable upon a Conversion, Redemption or repayment on maturity of a Debenture. There is no obligation under any circumstances on the REIT to gross-up amounts paid to a holder in respect of such deductions or withholdings or to otherwise indemnify or compensate any person for any amount in respect of any taxes.

To the extent that the amount so required or permitted to be deducted or withheld from any payment by the REIT in respect of the Debentures exceeds the cash portion (if any) of the amounts otherwise payable in respect of the Debentures, the REIT or the Debenture Trustee on the Written Direction of the REIT is hereby authorized to facilitate the sale or otherwise dispose of such portion of the consideration payable in respect of the Debentures (including any Debentures and any Trust Units otherwise required to be delivered by the REIT) as is necessary to provide sufficient funds to the REIT to enable it to comply with such deduction or withholding requirement and remit the relevant amount to the appropriate government, authority or agency.

For the avoidance of doubt, the provisions of this Section 2.16 shall apply to any amounts deemed to be interest paid or credited to a holder in connection with conversion, redemption or cancellation of any Debentures unless all taxes otherwise required or permitted to be withheld have otherwise been paid by the holder and the holder has provided the REIT or Debenture Trustee with evidence in writing of such payment.

**ARTICLE 3**  
**REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP**

**3.1 Fully Registered Debentures**

- (a) With respect to each series of Debentures issuable as Fully Registered Debentures, the REIT shall cause to be kept by and at the principal offices of the Debenture Trustee in Toronto, Ontario and by the Debenture Trustee or such other registrar as the REIT, with the approval of the Debenture Trustee, may appoint at such other place or places, if any, as may be specified in the Debentures of such series or as the REIT may designate with the approval of the Debenture Trustee, a register in which shall be entered the names and addresses of the holders of Fully Registered Debentures and particulars of the Debentures held by them respectively and of all transfers of Fully Registered Debentures. Such registration shall be noted on the Debentures by the Debenture Trustee or other registrar unless a new Debenture shall be issued upon such transfer.
- (b) No transfer of a Fully Registered Debenture shall be valid unless made on such register referred to in Section 3.1(a) by the registered holder or such holder's executors, administrators or other legal representatives or an attorney duly appointed by an instrument in writing in form and execution satisfactory to the Debenture Trustee or other registrar upon surrender of the Debentures together with a duly executed form of transfer acceptable to the Debenture Trustee and upon compliance with such other reasonable requirements as the Debenture Trustee or other registrar may prescribe, and unless the name of the transferee shall have been noted on the Debenture by the Debenture Trustee or other registrar.

**3.2 Global Debentures**

- (a) With respect to each series of Debentures issuable in whole or in part as one or more Global Debentures, the REIT shall cause to be kept by and at the principal office of the Debenture Trustee in Toronto, Ontario and by the Debenture Trustee or such other registrar as the REIT, with the approval of the Debenture Trustee, may appoint at such other place or places, if any, as the REIT may designate with the approval of the Debenture Trustee, a register in which shall be entered the name and address of the holder of each such Global Debenture (being the Depository, or its nominee, for such Global Debenture) as holder thereof and particulars of the Global Debenture held by it, and of all transfers thereof. If any Debentures of such series are at any time not Global Debentures, the provisions of Section 3.1 shall govern with respect to registrations and transfers of such Debentures.
- (b) Notwithstanding any other provision of this Indenture, a Global Debenture may not be transferred by the registered holder thereof and accordingly, no definitive certificates shall be issued to Beneficial Holders of Debentures except in the following circumstances or as otherwise specified in a resolution of the Trustees, Officer's Certificate or supplemental indenture relating to a particular series of Additional Debentures:

- (i) Global Debentures may be transferred by a Depository to a nominee of such Depository or by a nominee of a Depository to such Depository or to another nominee of such Depository or by a Depository or its nominee to a successor Depository or its nominee;
  - (ii) Global Debentures may be transferred at any time after the Depository for such Global Debentures (i) has notified the Debenture Trustee, or the REIT has notified the Debenture Trustee, that it is unwilling or unable to continue as Depository for such Global Debentures, or (ii) ceases to be eligible to be a Depository under Section 2.6(b), provided that at the time of such transfer the REIT has not appointed a successor Depository for such Global Debentures;
  - (iii) Global Debentures may be transferred at any time after the REIT has determined, in its sole discretion, to terminate the book-entry only registration system in respect of such Global Debentures and has communicated such determination to the Debenture Trustee in writing;
  - (iv) Global Debentures may be transferred at any time after the Debenture Trustee has determined that an Event of Default has occurred and is continuing with respect to the Debentures of the series issued as a Global Debenture, provided that at the time of such transfer the Debenture Trustee has not waived the Event of Default pursuant to Section 9.3;
  - (v) Global Debentures may be transferred if required by applicable law; or
  - (vi) Global Debentures may be transferred if the book-entry only registration system ceases to exist.
- (c) With respect to the Global Debentures, unless and until definitive certificates have been issued to Beneficial Holders pursuant to Section 3.2(b):
- (i) the REIT and the Debenture Trustee may deal with the Depository for all purposes (including paying interest on the Debentures) as the sole holder of such series of Debentures and the authorized representative of the Beneficial Holders;
  - (ii) the rights of the Beneficial Holders shall be exercised only through the Depository and shall be limited to those established by law and agreements between such Beneficial Holders and the Depository or the Depository Participants;
  - (iii) the Depository will make book-entry transfers among the Depository Participants; and
  - (iv) whenever this Indenture requires or permits actions to be taken based upon instruction or directions of Debentureholders evidencing a specified percentage of the outstanding Debentures, the Depository shall be deemed to be counted in that percentage only to the extent that it has received instructions to such effect from the Beneficial Holders or the

Depository Participant, and has delivered such instructions to the Debenture Trustee.

- (d) Whenever a notice or other communication is required to be provided to Debentureholders, unless and until definitive certificate(s) have been issued to Beneficial Holders pursuant to this Section 3.2, the Debenture Trustee shall provide all such notices and communications to the Depository. Upon the termination of the book-entry only registration system on the occurrence of one of the conditions specified in Section 3.2(b) with respect to a series of Debentures issued hereunder, the Debenture Trustee shall notify all applicable Beneficial Holders, through the Depository, of the availability of definitive Debenture certificates. Upon surrender by the Depository of the certificate(s) representing the Global Debentures and receipt of new registration instructions from the Depository, the Debenture Trustee shall deliver the definitive Debenture certificates for such Debentures to the holders thereof in accordance with such new registration instructions and thereafter, the registration and transfer of such Debentures will be governed by Section 3.1 and the remaining Sections of this Article 3.

### **3.3 Transferee Entitled to Registration**

The transferee of a Debenture shall be entitled, after the appropriate form of transfer is lodged with the Debenture Trustee or other registrar and upon compliance with all other conditions in that behalf required by this Indenture or by law, to be entered on the register as the owner of such Debenture free from all equities or rights of set-off or counterclaim between the REIT and the transferor or any previous holder of such Debenture, save in respect of equities of which the REIT is required to take notice by statute or by order of a court of competent jurisdiction.

### **3.4 No Notice of Trusts**

Neither the REIT nor the Debenture Trustee nor any registrar shall be bound to take notice of or see to the execution of any trust (other than that created by this Indenture) whether express, implied or constructive, in respect of any Debenture, and may transfer the same on the direction of the person registered as the holder thereof, whether named as trustee or otherwise, as though that person were the beneficial owner thereof.

### **3.5 Registers Open for Inspection**

The registers referred to in Sections 3.1 and 3.2 shall, subject to applicable law, during regular business hours, be open for inspection by the REIT, the Debenture Trustee or any Debentureholder. Every registrar, including the Debenture Trustee, shall from time to time when requested so to do by the REIT or by the Debenture Trustee, in writing, furnish the REIT or the Debenture Trustee, as the case may be, with a list of names and addresses of holders of registered Debentures entered on the register kept by them and showing the principal amount and serial numbers of the Debentures held by each such holder, provided the Debenture Trustee or other registrar shall be entitled to charge a reasonable fee to provide such a list.

### **3.6 Exchanges of Debentures**

- (a) Subject to Section 3.7, Debentures in any authorized form or denomination, other than Global Debentures, may be exchanged for Debentures in any other

authorized form or denomination, of the same series and date of maturity, bearing the same interest rate and of the same aggregate principal amount as the Debentures so exchanged.

- (b) In respect of exchanges of Debentures permitted by Section 3.6(a), Debentures of any series may be exchanged only at the principal offices of the Debenture Trustee in Toronto, Ontario or at such other place or places, if any, as may be specified in the Debentures of such series and at such other place or places as may from time to time be designated by the REIT with the approval of the Debenture Trustee. Any Debentures tendered for exchange shall be surrendered to the Debenture Trustee. The REIT shall execute and the Debenture Trustee shall certify all Debentures necessary to carry out exchanges as aforesaid. All Debentures surrendered for exchange shall be cancelled.
- (c) Debentures issued in exchange for Debentures which at the time of such issue have been selected or called for redemption at a later date shall be deemed to have been selected or called for redemption in the same manner and shall have noted thereon a statement to that effect.

### **3.7 Closing of Registers**

- (a) Neither the REIT nor the Debenture Trustee nor any registrar shall be required to:
  - (i) make transfers or exchanges, or accept conversions, of Debentures on any Interest Payment Date for such Debentures or during the five preceding Business Days;
  - (ii) make transfers or exchanges, or accept conversions, of any Debentures on the day of any selection by the REIT of Debentures to be redeemed or during the five preceding Business Days; or
  - (iii) make exchanges of any Debentures which have been selected or called for redemption unless upon due presentation thereof for redemption such Debentures shall not be redeemed.
- (b) Subject to any restriction herein provided, the REIT with the approval of the Debenture Trustee may at any time close any register for any series of Debentures, other than those kept at the principal offices of the Debenture Trustee in Toronto, Ontario, and transfer the registration of any Debentures registered thereon to another register (which may be an existing register) and thereafter such Debentures shall be deemed to be registered on such other register. Notice of such transfer shall be given to the holders of such Debentures.

### **3.8 Charges for Registration, Transfer and Exchange**

For each Debenture exchanged, registered, transferred or discharged from registration, the Debenture Trustee or other registrar, except as otherwise herein provided, may make a reasonable charge for its services and in addition may charge a reasonable sum for each new Debenture issued (such amounts to be agreed upon from time to time by the Debenture Trustee and the REIT), and payment of such charges and reimbursement of the Debenture Trustee or other

registrar for any stamp taxes or governmental or other charges required to be paid shall be made by the party requesting such exchange, registration, transfer or discharge from registration as a condition precedent thereto. Notwithstanding the foregoing provisions, no charge shall be made to a Debentureholder hereunder:

- (a) for any exchange, registration, transfer or discharge from registration of any Debenture applied for within a period of two months from the date of the first delivery of Debentures of that series or, with respect to Debentures subject to a Periodic Offering, within a period of two months from the date of delivery of any such Debenture;
- (b) for any exchange of any interim or temporary Debenture or interim certificate that has been issued under Section 2.9 for a definitive Debenture;
- (c) for any exchange of a Global Debenture as contemplated in Section 3.2; or
- (d) for any exchange of any Debenture resulting from a partial redemption under Section 4.2.

### **3.9 Ownership of Debentures**

- (a) Unless otherwise required by law, the person in whose name any Fully Registered Debenture is registered shall for all the purposes of this Indenture be and be deemed to be the owner thereof, and the REIT and the Debenture Trustee will not be affected by any notice or knowledge to the contrary except as required by statute or by order of a court of competent jurisdiction, and payment of or on account of the principal of and premium, if any, on such Debenture and interest thereon shall be made to such registered holder.
- (b) The registered holder for the time being of any Fully Registered Debenture shall be entitled to the principal, premium, if any, and/or interest evidenced by such instruments, respectively, free from all equities or rights of set-off or counterclaim between the REIT and the original or any intermediate holder thereof and all persons may act accordingly and the receipt of any such registered holder for any such principal, premium or interest shall be a good discharge to the REIT and/or the Debenture Trustee for the same and neither the REIT nor the Debenture Trustee shall be bound to inquire into the title of any such registered holder.
- (c) Where Debentures are registered in more than one name, the principal, premium, if any, and interest from time to time payable in respect thereof may be paid to the order of all or any of such holders, failing written instructions from them to the contrary, and the receipt of any one of such holders therefor shall be a valid discharge, to the Debenture Trustee, any registrar and to the REIT.
- (d) In the case of the death of one or more joint holders of any Debenture the principal, premium, if any, and interest from time to time payable thereon may be paid to the order of the survivor or survivors of such registered holders and the receipt of any such survivor or survivors therefor shall be a valid discharge to the Debenture Trustee and any registrar and to the REIT.



## ARTICLE 4

### REDEMPTION AND PURCHASE OF DEBENTURES

#### 4.1 Applicability

Subject to compliance with applicable laws, the REIT shall have the right at its option to redeem, either in whole or in part from time to time before maturity, either by payment of money in accordance with Section 2.13, by issuance of Freely Tradeable Trust Units as provided in Section 4.6 or any combination thereof, any Debentures issued hereunder of any series which by their terms are made so redeemable (subject, however, to any applicable restriction on the redemption of Debentures of such series, such as those contained in Section 2.4(c) in respect of the Initial Debentures) at such rate or rates of premium, if any, and on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debentures and as shall have been expressed in this Indenture, in the Debentures, in an Officer's Certificate, or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in the Written Direction of the REIT requesting the certification and delivery thereof.

#### 4.2 Partial Redemption

If less than all the Debentures of any series for the time being outstanding are at any time to be redeemed or if a portion are being redeemed for cash and a portion are being redeemed by the issuance of Freely Tradeable Trust Units, the Debentures to be so redeemed shall be selected by the Debenture Trustee (i) on a *pro rata* basis to the nearest multiple of \$1,000 in accordance with the principal amount of the Debentures registered in the name of each holder, or (ii) in such other manner as the REIT deems equitable, subject to the approval of the of the TSX or such other exchange on which the Debentures are then listed, as may be required from time to time. Unless otherwise specifically provided in the terms of any series of Debentures, no Debenture shall be redeemed in part unless the principal amount redeemed is \$1,000 or a multiple thereof. For this purpose, the Debenture Trustee may make, and from time to time vary, regulations with respect to the manner in which such Debentures may be drawn for redemption and regulations so made shall be valid and binding upon all holders of such Debentures notwithstanding the fact that as a result thereof one or more of such Debentures may become subject to redemption in part only. In the event that one or more of such Debentures becomes subject to redemption in part only, upon surrender of any such Debentures for payment of the Redemption Price, together with interest accrued but unpaid to and including the Redemption Date, the REIT shall execute and the Debenture Trustee shall certify and deliver without charge to the holder thereof or upon the holder's order one or more new Debentures for the unredeemed part of the principal amount of the Debenture or Debentures so surrendered. Unless the context otherwise requires, the terms "Debenture" or "Debentures" as used in this Article 4 shall be deemed to mean or include any part of the principal amount of any Debenture which in accordance with the foregoing provisions has become subject to redemption.

#### 4.3 Notice of Redemption

Written notice of redemption (the "**Redemption Notice**") of any series of Debentures shall be given to the Debenture Trustee and the holders of the Debentures to be redeemed at least 30 days and not more than 60 days prior to the date fixed for redemption (the "**Redemption Date**") in the manner provided in Section 15.2 and Section 15.3. Every such notice shall specify the aggregate principal amount of Debentures called for redemption, the Redemption Date, the Redemption Price and the places of payment and shall state that interest upon the principal amount of



Debentures called for redemption shall cease to accrue and be payable from and after the Redemption Date. In addition, unless all the outstanding Debentures are to be redeemed, the Redemption Notice shall specify:

- (a) the distinguishing letters and numbers of the registered Debentures which are to be redeemed (or of such thereof as are registered in the name of such Debentureholder);
- (b) in the case of a published notice, the distinguishing letters and numbers of the Debentures which are to be redeemed or, if such Debentures are selected by terminal digit or other similar system, such particulars as may be sufficient to identify the Debentures so selected;
- (c) in the case of a Global Debenture, that the redemption will take place in such manner as may be agreed upon by the Depository, the Debenture Trustee and the REIT; and
- (d) in all cases, the principal amounts of such Debentures or, if any such Debenture is to be redeemed in part only, the principal amount of such part.

In the event that all Debentures to be redeemed are Fully Registered Debentures, publication shall not be required.

#### **4.4 Debentures Due on Redemption Dates**

Upon notice having been given as aforesaid, all Debentures so called for redemption shall thereupon be and become due and payable at the Redemption Price, together with accrued but unpaid interest to but excluding the Redemption Date (less any taxes required to be deducted or withheld), on the Redemption Date specified in such notice, in the same manner and with the same effect as if it were the date of maturity specified in such Debentures, anything therein or herein to the contrary notwithstanding, and from and after such Redemption Date, if the monies necessary to redeem, or the Freely Tradeable Trust Units to be issued to redeem, such Debentures shall have been deposited as provided in Section 4.5 and affidavits or other proof satisfactory to the Debenture Trustee as to the publication and/or mailing of such notices shall have been lodged with it, interest upon the Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Debenture Trustee whose decision shall be final and binding upon all parties in interest.

#### **4.5 Deposit of Redemption Monies or Trust Units**

Redemption of Debentures shall be provided for by the REIT depositing with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, by wire or an electronic funds transfer on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the Redemption Date specified in such notice, such sums of money, or certificates representing such Trust Units, or both as the case may be, as may be sufficient to pay the Redemption Price of the Debentures so called for redemption, plus accrued but unpaid interest thereon up to but excluding the Redemption Date (less any taxes required to be deducted or withheld), provided the REIT may elect to satisfy this requirement by providing the Debenture Trustee with a certified cheque for such amounts required under this Section 4.5 post-dated to the Redemption Date. At the request of the Debenture Trustee, the REIT shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be reasonably incurred by the

Debenture Trustee in connection with such redemption. Every such deposit shall be irrevocable. From the sums so deposited, or certificates representing Trust Units so deposited, or both, the Debenture Trustee shall pay or cause to be paid, or issue or cause to be issued, to the holders of such Debentures so called for redemption, upon surrender of such Debentures, the principal, premium (if any) and interest (if any) to which they are respectively entitled on redemption (less any taxes required to be deducted or withheld).

#### **4.6 Right to Pay Redemption Price in Trust Units**

- (a) Subject to the other provisions of this Section 4.6, the REIT may, at its option, elect to satisfy its obligation to pay the Redemption Price, in whole or in part, by issuing and delivering to holders on the Redemption Date that number of Freely Tradeable Trust Units obtained by dividing the aggregate principal amount of Debentures being repaid by 95% of the Current Market Price of the Trust Units on the Redemption Date (the “**Trust Unit Redemption Right**”).
- (b) The REIT shall exercise the Trust Unit Redemption Right by so specifying in the Redemption Notice and shall specify the aggregate principal amount of Debentures in respect of which it is exercising the Trust Unit Redemption Right in such notice.
- (c) The REIT’s right to exercise the Trust Unit Redemption Right shall be conditional upon the following conditions being met on or before the Business Day preceding the Redemption Date:
  - (i) the Trust Units to be issued on exercise of the Trust Unit Redemption Right being Freely Tradeable;
  - (ii) the conditional listing of such additional Trust Units on each stock exchange on which the Trust Units are then listed subject only to customary conditions of listing;
  - (iii) the REIT being a reporting issuer (or its equivalent) in good standing under Applicable Securities Legislation where the distribution of such Trust Units occurs;
  - (iv) no Event of Default shall have occurred and be continuing;
  - (v) the receipt by the Debenture Trustee of an Officer’s Certificate stating that conditions (i), (ii), (iii) and (iv) above have been satisfied and setting forth the number of Trust Units to be delivered for each \$1,000 principal amount of Debentures and the Current Market Price of the Trust Units on the Redemption Date; and
  - (vi) the receipt by the Debenture Trustee of an opinion of Counsel dated the Redemption Date to the effect that such Trust Units have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment of the Redemption Price, will be validly issued as fully paid and non- assessable, that condition (i) above has been satisfied, that, relying exclusively on correspondence from the relevant stock exchange, condition (ii) above has been satisfied and that, relying

exclusively on default reporting issuer lists maintained by the relevant securities authorities and/or certificates of no default issued by the relevant securities authorities, condition (iii) above is satisfied, except that the opinion in respect of condition (iii) need not be expressed with respect to those provinces and territories where lists are not maintained or certificates are not issued.

If the foregoing conditions are not satisfied at or prior to the close of business on the Business Day preceding the Redemption Date, the REIT shall pay in cash 100% of the Redemption Price that would otherwise have been satisfied in Trust Units in accordance with Section 4.5 unless the Debentureholders waive the conditions which are not satisfied by Extraordinary Resolution.

- (d) In the event that the REIT duly exercises its Trust Unit Redemption Right, upon presentation and surrender of the Debentures for payment on the Redemption Date, at any place where a register is maintained pursuant to Article 3 or any other place specified in the Redemption Notice, the REIT shall on the Redemption Date make the delivery to the Debenture Trustee for delivery to and on account of the registered holders, of certificates representing the number of whole Freely Tradeable Trust Units and a cheque representing the accrued and unpaid interest (less any tax required to be deducted or withheld, if any) and amounts in respect of fractional Trust Units to which such registered holders are entitled.
- (e) No fractional Freely Tradeable Trust Units shall be delivered upon the exercise of the Trust Unit Redemption Right but, in lieu thereof, the REIT shall pay to the Debenture Trustee for the account of the registered holders, at the time contemplated in Section 4.6(d), the cash equivalent thereof determined on the basis of the Current Market Price of the Trust Units on the Redemption Date (less any tax required to be deducted or withheld, if any). Upon request by the Debenture Trustee, the REIT shall provide, in writing to the Debenture Trustee, the price to be paid in respect of such fractional Trust Units.
- (f) A registered holder shall be treated as the unitholder of record of the Trust Units issued on due exercise by the REIT of its Trust Unit Redemption Right effective on the Redemption Date, and shall be entitled to all substitutions therefor, all income earned thereon or accretions thereto and all distributions (including unit distributions or distributions in kind) thereon and arising thereafter, and in the event that the Debenture Trustee receives the same, it shall hold the same in trust for the benefit of such holder.
- (g) The REIT shall at all times reserve and keep available out of its authorized Trust Units (if the number thereof is or becomes limited), solely for the purpose of issue and delivery upon the exercise of the Trust Unit Redemption Right as provided herein, and shall issue to Debentureholders to whom Freely Tradeable Trust Units will be issued pursuant to exercise of the Trust Unit Redemption Right, such number of Freely Tradeable Trust Units as shall be issuable in such event. All Freely Tradeable Trust Units which shall be so issuable shall be duly and validly issued as fully paid and non-assessable.

- (h) The REIT shall comply with all Applicable Securities Legislation regulating the issue and delivery of Trust Units upon exercise of the Trust Unit Redemption Right and shall cause to be listed and posted for trading such Trust Units on each stock exchange on which the Trust Units are then listed.
- (i) The REIT shall from time to time promptly pay to the proper tax authorities, or make provision satisfactory to the Debenture Trustee for the payment of, all taxes and charges which may be imposed by the laws of Canada or any province thereof (except income tax, withholding tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Freely Tradeable Trust Units to holders upon exercise of the Trust Unit Redemption Right pursuant to the terms of the Debentures and of this Indenture.
- (j) If the REIT elects to satisfy its obligation to pay the Redemption Price, in whole or in part, by issuing Freely Tradeable Trust Units in accordance with this Section 4.6 and if the Redemption Price (or any portion thereof) to which a holder is entitled is subject to withholding taxes and the amount of the portion of the Redemption Price elected by the REIT to be paid in cash, if any, is insufficient to satisfy such withholding taxes, the Debenture Trustee, on the written direction of the REIT but for the account of the holder, shall facilitate the sale, through the investment banks, brokers or dealers selected by the REIT, out of the Freely Tradeable Trust Units issued by the REIT for this purpose, such number of Freely Tradeable Trust Units that together with the cash payment portion of the Redemption Price, if any, is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld or deducted, and shall remit same on behalf of the REIT to the proper tax authorities within the period of time prescribed for this purpose under applicable laws and any remaining cash proceeds from the sale of such Freely Tradeable Trust Units, after such remittance, shall be paid to the holder. In the event the Debenture Trustee sells such Freely Tradeable Trust Units pursuant to this Section 4.6(j), the procedures set forth in Article 11 shall apply *mutatis mutandis* to such sale.
- (k) Each certificate representing Freely Tradable Trust Units issued in payment of the Redemption Price of Debentures may have imprinted or otherwise reproduced thereon such legend or endorsement, not inconsistent with the provisions of this Indenture, as may be required to comply with any laws or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or any securities regulatory authority or to conform to general usage, all as may be determined by the REIT, as conclusively evidenced by the issue of such certificates..

#### **4.7 Failure to Surrender Debentures Called for Redemption**

In case the holder of any Debenture so called for redemption shall fail on or before the Redemption Date to surrender such holder's Debenture, or shall not within such time accept payment of the Redemption Price payable, or take delivery of certificates representing any Trust Units issuable in respect thereof, or give such receipt therefor, if any, as the Debenture Trustee may require, such redemption monies may be set aside in trust without interest, or such certificates may be held in trust without interest, either in the deposit department of the Debenture Trustee or in a chartered bank (which may, but need not be, an affiliate of the Debenture Trustee), and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the

sum so set aside and, to that extent, the Debenture shall thereafter not be considered as outstanding hereunder and the Debentureholder shall have no other right except to receive payment out of the monies so paid and deposited, or to take delivery out of the certificates so deposited or substitutions therefor, or both, upon surrender and delivery of such holder's Debenture, of the Redemption Price plus accrued interest and unpaid interest to but excluding the Redemption Date, all distributions (including unit distributions and distributions in kind) arising after the Redemption Date on the Trust Units, if any, so deposited or substitutions therefor, as applicable in respect of such Debenture, and in the event that the Debenture Trustee receives the same, it shall hold the same in trust for the benefit of such holder. In the event that any money, or certificates, required to be deposited hereunder with the Debenture Trustee or any depository or paying agent on account of principal, premium, if any, or interest, if any, on Debentures issued hereunder shall remain so deposited for a period of six years from the Redemption Date, then, subject to any applicable law regarding unclaimed property, such monies, or certificates or substitutions for certificates, together with any distributions (including unit distributions and distributions in kind) thereon, shall at the end of such period, upon the written request of the REIT, be paid over or delivered over by the Debenture Trustee or such depository or paying agent to the REIT, and thereupon the Debenture Trustee shall not be responsible to Debentureholders for any amounts owing to them, shall be released from all further liability with respect to such monies or certificates, if applicable, and, subject to applicable law, thereafter the Debentureholder in respect of which such monies or certificates, if applicable, was so repaid to the REIT shall have no rights in respect thereof except to obtain payment of the monies or certificates, if applicable, due from the REIT, subject to any limitation period provided by the laws of Ontario.

#### **4.8 Cancellation of Debentures Redeemed**

Subject to the provisions of Sections 4.2 and 4.9 as to Debentures redeemed or purchased in part, all Debentures redeemed and whose obligations have been satisfied under this Article 4 shall forthwith be delivered to the Debenture Trustee and cancelled and no Debentures shall be issued in substitution therefor.

#### **4.9 Purchase of Debentures by the REIT**

Unless otherwise specifically provided with respect to a particular series of Debentures, the REIT may, provided no Event of Default has occurred and is continuing, at any time and from time to time, purchase Debentures in the market (which shall include purchase from or through an investment dealer or a firm holding membership on a recognized stock exchange) or by tender or by private contract, at any price, subject to compliance with Applicable Securities Legislation regarding issuer bids. If an Event of Default has occurred and is continuing, the REIT may purchase all or any of the Debentures as aforesaid, except by private contract. All Debentures so purchased shall be cancelled and no Debentures shall be issued in substitution therefor.

If, upon an invitation for tenders, more Debentures are tendered at the same lowest price that the REIT is prepared to accept, the Debentures to be purchased by the REIT shall be selected by the Debenture Trustee, in such manner (which may include selection by lot, selection on a *pro rata* basis, random selection by computer or any other method) or in such other manner consented to by the of the TSX or such other exchange on which the Debentures are then listed and the Debenture Trustee which the REIT considers appropriate and so instructs the Debenture Trustee in writing, from the Debentures tendered by each tendering Debentureholder who tendered at such lowest price. For this purpose the Debenture Trustee may make, and from time to time amend, regulations with respect to the manner in which Debentures may be so selected, and regulations so made shall be valid and binding upon all Debentureholders, notwithstanding the

fact that as a result thereof one or more of such Debentures become subject to purchase in part only. The Debentureholder of which a part only is purchased, upon surrender of such Debenture for payment, shall be entitled to receive, without expense to such holder, one or more new Debentures for the unpurchased part so surrendered, and the Debenture Trustee shall certify and deliver such new Debenture or Debentures upon receipt of the Debenture so surrendered.

#### **4.10 Right to Repay Principal Amount in Trust Units**

- (a) Subject to Section 2.4(k)(iii), the other provisions of this Section 4.10, and any applicable regulatory approval, the REIT may, at its option, elect to satisfy its obligation to repay the principal amount of the Debentures outstanding, in whole or in part, by issuing and delivering to holders on the applicable maturity date that number of Freely Tradeable Trust Units obtained by dividing the \$1,000 principal amount of the Debentures by 95% of the Current Market Price of the Trust Units on the applicable maturity date (the “**Unit Repayment Option**”).
- (b) The REIT shall exercise the Unit Repayment Option by so specifying in a maturity notice (the “**Maturity Notice**”), which shall be delivered to the Debenture Trustee and the Debentureholders not more than 60 days’ and not less than 30 days’ prior to the applicable maturity date. The Maturity Notice shall also specify the aggregate principal amount of Debentures in respect of which it is exercising the Trust Unit Redemption Right.
- (c) The REIT’s right to exercise the Unit Repayment Option shall be conditional upon the following conditions being met on or before the Business Day preceding the applicable maturity date:
  - (i) the Trust Units to be issued on exercise of the Unit Repayment Option being Freely Tradeable;
  - (ii) the conditional listing of such additional Trust Units on each stock exchange on which the Trust Units are then listed subject only to customary conditions of listing;
  - (iii) the REIT being a reporting issuer (or its equivalent) in good standing under Applicable Securities Legislation where the distribution of such Trust Units occurs;
  - (iv) no Event of Default shall have occurred and be continuing;
  - (v) the receipt by the Debenture Trustee of an Officer’s Certificate stating that conditions (i), (ii), (iii) and (iv) above have been satisfied and setting forth the number of Trust Units to be delivered for each \$1,000 principal amount of Debentures and the Current Market Price of the Trust Units on the applicable maturity date; and
  - (vi) the receipt by the Debenture Trustee of an opinion of Counsel dated the date of the applicable maturity date to the effect that such Trust Units have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment, in whole or in part, of the principal amount of the Debentures outstanding will be validly issued as



fully paid and non-assessable, that condition (i) above has been satisfied, that, relying exclusively on correspondence from the relevant stock exchange, condition (ii) above has been satisfied and that, relying exclusively on default reporting issuer lists maintained by the relevant securities authorities and/or certificates of no default issued by the relevant securities authorities, condition (iii) above is satisfied, except that the opinion in respect of condition (iii) need not be expressed with respect to those provinces where lists are not maintained certificates are not issued.

If the foregoing conditions are not satisfied prior to the close of business on the Business Day preceding the applicable maturity date, the REIT shall pay in cash 100% of the principal amount of the Debentures outstanding that would have otherwise been payable in accordance with Section 2.13, unless the Debentureholders waive the conditions which are not satisfied by Extraordinary Resolution.

- (d) In the event that the REIT duly exercises its Unit Repayment Option, upon presentation and surrender of the Debentures for payment on the applicable maturity date, at any place where a register is maintained pursuant to Article 3 or any other place specified in the Maturity Notice, the REIT shall, on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the applicable maturity date make the delivery to the Debenture Trustee for delivery to and on account of the holders, of certificates representing the Freely Tradeable Trust Units and a cheque representing the accrued and unpaid interest and amounts in respect of fractional Trust Units to which such registered holders are entitled. From the certificates so deposited in addition to amounts payable by the Debenture Trustee pursuant to Section 2.13, the Debenture Trustee shall pay or cause to be paid, to the holders of such Debentures, upon surrender of such Debentures, the principal amount of the Debentures to which they are respectively entitled on maturity and deliver to such holders the certificates to which such holders are entitled. The delivery of such certificates and funds to the Debenture Trustee will satisfy and discharge the liability of the REIT for the Debentures to which the delivery of certificates and funds relates to the extent of the amount delivered (plus the amount of any certificates sold to pay applicable taxes in accordance with this Section 4.10) and such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the certificates so delivered, the certificate(s) to which it is entitled.
- (e) No fractional Freely Tradeable Trust Units shall be delivered upon the exercise of the Unit Repayment Option but, in lieu thereof, the REIT shall pay to the Debenture Trustee for the account of the registered holders, at the time contemplated in Section 4.10(d), the cash equivalent thereof determined on the basis of the Current Market Price of the Trust Units on the applicable maturity date (less any tax required to be deducted, if any). Upon request by the Debenture Trustee, the REIT shall provide, in writing to the Debenture Trustee, the price to be paid in respect of such fractional Freely Tradeable Trust Units.
- (f) A registered holder shall be treated as the unitholder of record of the Freely Tradeable Trust Units issued on due exercise by the REIT of its Unit Repayment Option effective on the applicable maturity date, and shall be entitled to all



substitutions therefor, all income earned thereon or accretions thereto and all distributions (including unit distributions and distributions in kind) thereon and arising thereafter, and in the event that the Debenture Trustee receives the same, it shall hold the same in trust for the benefit of such holder.

- (g) The REIT shall at all times reserve and keep available out of its authorized Trust Units (if the number thereof is or becomes limited), solely for the purpose of issue and delivery upon the exercise of the Unit Repayment Option as provided herein, and shall issue to Debentureholders to whom Freely Tradeable Trust Units will be issued pursuant to exercise of the Unit Repayment Option, such number of Freely Tradeable Trust Units as shall be issuable in such event. All Freely Tradeable Trust Units which shall be so issuable shall be duly and validly issued as fully paid and non-assessable.
- (h) The REIT shall comply with all Applicable Securities Legislation regulating the issue and delivery of Trust Units upon exercise of the Unit Repayment Option and shall cause to be listed and posted for trading such Trust Units on each stock exchange on which the Trust Units are then listed.
- (i) The REIT shall from time to time promptly pay to the proper tax authorities, or make provision satisfactory to the Debenture Trustee for the payment of, all taxes and charges which may be imposed by the laws of Canada or any province thereof (except income tax, withholding tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Freely Tradeable Trust Units to holders upon exercise of the Unit Repayment Option pursuant to the terms of the Debentures and of this Indenture.
- (j) If the REIT elects to satisfy its obligation to pay the principal amount of Debentures, in whole or in part, due on the applicable maturity date by issuing Freely Tradeable Trust Units in accordance with this Section 4.10 and if the principal amount (or any portion thereof) to which a holder is entitled is subject to withholding taxes and the amount of the portion of the principal amount due on maturity elected by the REIT to be paid in cash, if any, is insufficient to satisfy such withholding taxes, the Debenture Trustee, on written direction of the REIT but for the account of the holder, shall facilitate the sale, through the investment banks, brokers or dealers selected by the REIT, out of the Freely Tradeable Trust Units issued by the REIT for this purpose, such number of Freely Tradeable Trust Units that together with the cash component of the principal amount due on maturity is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and the Debenture Trustee shall remit same on behalf of the REIT to the proper tax authorities within the period of time prescribed for this purpose under applicable laws and any remaining cash proceeds from the sale of such Freely Tradeable Trust Units, after such remittance, shall be paid to the holder. In the event the Debenture Trustee shall facilitate the sale of such Freely Tradeable Trust Units pursuant to this Section 4.10(j), the procedures set forth in Article 11 shall apply *mutatis mutandis* to such sale.
- (k) Each certificate representing Freely Tradeable Trust Units issued in payment of the principal amount of Debentures, as well as all certificates issued in exchange for or in substitution of the foregoing securities, may have imprinted or otherwise

reproduced thereon such legend or endorsement, not inconsistent with the provisions of this Indenture, as may be required to comply with any laws or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or any securities regulatory authority or to conform to general usage, all as may be determined by the REIT, as conclusively evidenced by the issue of such certificates.

#### **4.11 Deposit of Maturity Monies or Trust Units**

Payment on maturity of Debentures shall be provided for by the REIT depositing with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the applicable maturity date such sums of money, or certificates representing such Trust Units, as the case may be, as may be sufficient to pay the principal amount of the Debentures, together with accrued interest thereon up to but excluding the applicable maturity date. The REIT shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Debenture Trustee in connection therewith. Every such deposit shall be irrevocable. From the sums so deposited, or certificates so deposited, the Debenture Trustee shall pay or cause to be paid, or issue or cause to be issued, to the holders of such Debentures, upon surrender of such Debentures, the principal, premium (if any) and interest (if any) to which they are respectively entitled on maturity.

### **ARTICLE 5 SUBORDINATION OF DEBENTURES**

#### **5.1 Applicability**

The indebtedness, liabilities and obligations of the REIT hereunder (except as provided in Section 16.16) or under the Debentures, whether on account of principal, interest or otherwise, but excluding the issuance of Trust Units or other securities upon any conversion pursuant to Article 6, upon any redemption pursuant to Article 4, or at maturity pursuant to Article 4 (collectively the “**Debenture Liabilities**”), shall be subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in the following sections of this Article 5, to the full and final payment of all Senior Indebtedness of the REIT and each holder of any such Debenture by his acceptance thereof agrees to and shall be bound by the provisions of this Article 5.

#### **5.2 Definition**

For the purposes of this Article 5, the words “cash, property or securities” shall be deemed not to include Trust Units of the REIT as reorganized or readjusted, or securities of the REIT or of any person provided for by a plan of reorganization or readjustment the payment of which is subordinated, at least to the extent provided in this Article 5 with respect to the Debentures, to the payment of all Senior Indebtedness which may at the time be outstanding provided that the Senior Indebtedness are assumed by the new person, if any, resulting from any such reorganization or readjustment and provided further than the rights of the holders of the Senior Indebtedness are not, without the consent of such holders, altered by such reorganization or readjustment.

### 5.3 Order of Payment

In the event of any dissolution, winding-up, liquidation, reorganization, bankruptcy, insolvency, receivership, creditor enforcement or realization or other similar proceedings relating to the REIT or any of its property (whether voluntary or involuntary, partial or complete) or any other marshalling of the assets and liabilities of the REIT or any sale of all or substantially all of the assets of the REIT:

- (a) all Senior Indebtedness shall first be paid in full, or provision made for such payment, before any payment is made on account of Debenture Liabilities;
- (b) any payment or distribution of assets of the REIT, whether in cash, property or securities, to which the holders of the Debentures or the Debenture Trustee on behalf of such holders would be entitled except for the provisions of this Article 5, shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, to the Senior Creditors to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness;
- (c) the Senior Creditors or a receiver or a receiver-manager of the REIT or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the REIT assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Debentureholders or the Debenture Trustee or any requirement to account to the Debenture Trustee or the Debentureholders; and
- (d) the rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by:
  - (i) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of the Senior Security;
  - (ii) the time or order of the attachment, perfection or crystallization of any security constituted by the Senior Security;
  - (iii) the taking of any collection, enforcement or realization proceedings pursuant to the Senior Security;
  - (iv) the date of obtaining any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors, or any of them or the Debentureholders or any of them to any money or property of the REIT;
  - (v) the failure to exercise any power or remedy reserved to the Senior Creditors under the Senior Security or to insist upon a strict compliance with any terms thereof;

- (vi) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (vii) the date of giving or failing to give notice to or making demand upon the REIT; or
- (viii) any other matter whatsoever.

#### **5.4 Subrogation to Rights of Senior Creditors**

Subject to the prior payment in full of all Senior Indebtedness, the rights of the Debentureholders shall be subrogated to the rights of the Senior Creditors to receive payments or distributions of assets of the REIT in respect of and on account of the Senior Indebtedness, to the extent of the application thereto of such payments or other assets which would have been received by the Debentureholders but for the provisions hereof, until the principal of and interest on and all other amounts owing hereunder or in relation to the Debentures shall be paid in full. No such payments or distributions to the Debentureholders of cash, property or securities of the REIT payable to the Debentureholders, which otherwise would be payable or distributable to the Senior Creditors, shall, as between the REIT, its creditors other than the Senior Creditors, and the Debentureholders, be deemed to be a payment by the REIT to or on account of the Senior Creditors, it being understood that the provisions of this Article 5 are and are intended solely for the purpose of defining the relative rights of the Debentureholders, on the one hand, and the Senior Creditors, on the other hand.

The Debentures shall be subordinated to claims of creditors of the REIT's Subsidiaries, except to the extent the REIT is a creditor of such Subsidiaries ranking at least *pari passu* with such other creditors.

The Debenture Trustee, for itself and on behalf of each of the Debentureholders, hereby waives any and all rights to require a Senior Creditor to pursue or exhaust any rights or remedies with respect to the REIT or any property and assets subject to the Senior Security or in any other manner to require the marshalling of property, assets or security in connection with the exercise by the Senior Creditors of any rights, remedies or recourses available to them.

#### **5.5 Obligation to Pay Not Impaired**

Nothing contained in this Article 5 or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as between the REIT, its creditors other than the Senior Creditors, and the Debentureholders, the obligation of the REIT, which is absolute and unconditional, to pay to the Debentureholders the principal of and interest on the Debentures, as and when the same shall become due and payable in accordance with their terms, or to affect the relative rights of the Debentureholders and creditors of the REIT other than the Senior Creditors, nor shall anything herein or therein prevent the Debenture Trustee or the Debentureholders from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article 5 of the Senior Creditors.

#### **5.6 No Payment if Senior Indebtedness in Default**

Upon the maturity of any Senior Indebtedness by lapse of time, acceleration or otherwise, or any other enforcement of any Senior Indebtedness, then, except as provided in Section 5.9, all such

Senior Indebtedness shall first be paid in full, or shall first have been duly provided for, before any payment is made on account of the Debenture Liabilities or otherwise in respect of the Debentures.

In case of a default that is continuing with respect to any Senior Indebtedness permitting a Senior Creditor to demand payment or accelerate the maturity thereof, and notice in accordance with the terms of such Senior Indebtedness of such event of default having been given by or on behalf of the Senior Creditors to the REIT (a copy of which notice shall be delivered by the REIT to the Debenture Trustee in accordance with Section 15.3), then, unless and until such default shall have been cured or waived or shall have ceased to exist, no payment (by purchase of Debentures or otherwise) shall be made by the REIT with respect to the Debenture Liabilities and neither the Debenture Trustee nor the Debentureholders shall be entitled to demand, institute proceedings for the collection of, or receive any payment or benefit (including without limitation by set-off, combination of accounts, realization of security or otherwise in any manner whatsoever) on account of the Debentures after the happening of such a default (except as provided in Section 5.9), and unless and until such default shall have been cured or waived or shall have ceased to exist, such payments shall be held in trust for the benefit of, and, if and when such Senior Indebtedness shall have become due and payable, shall be paid over to the Senior Creditors or to the trustee or trustees under any indenture under which any instruments evidencing an amount of the Senior Indebtedness remaining unpaid, until all such Senior Indebtedness shall have been paid in full, after giving effect to any concurrent payment or distribution to the Senior Creditors.

The fact that any payment hereunder is prohibited by this Section 5.6 shall not prevent the failure to make such payment from being an Event of Default hereunder.

## **5.7 Payment on Debentures Permitted**

Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall affect the obligation of the REIT to make, or prevent the REIT from making, at any time except as prohibited by Section 5.6, any payment of principal of or interest on the Debentures. The fact that any such payment is prohibited by Section 5.6 shall not prevent the failure to make such payment from being an Event of Default hereunder. Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall prevent the conversion of the Debentures or, except as prohibited by Section 5.6, the application by the Debenture Trustee of any monies deposited with the Debenture Trustee hereunder for the purpose, to the payment of or on account of the Debenture Liabilities.

## **5.8 Confirmation of Subordination**

Each Debentureholder by his acceptance thereof authorizes and directs the Debenture Trustee on his behalf to take such action as may be necessary or appropriate to effect the subordination as provided in this Article 5 and appoints the Debenture Trustee his attorney-in-fact for any and all such purposes. Upon the written request of the REIT, and upon being furnished an Officer's Certificate stating that one or more named persons are Senior Creditors and specifying the amount and nature of the Senior Indebtedness of such Senior Creditor, the Debenture Trustee shall enter into a written agreement or agreements with the REIT and the person or persons named in such Officer's Certificate providing that such person or persons are entitled to all the rights and benefits of this Article 5 as a Senior Creditor. Such agreement shall be conclusive evidence that the indebtedness specified therein is Senior Indebtedness however, nothing herein shall impair the rights of any Senior Creditor who has not entered into such an agreement.

## **5.9 Knowledge of Debenture Trustee**

Notwithstanding the provisions of this Article 5 or any provision in this Indenture or in the Debentures, the Debenture Trustee will not be charged with knowledge of any Senior Indebtedness or of any default in the payment thereof, or of the existence of any other fact that would prohibit the making of any payment of monies to or by the Debenture Trustee, or the taking of any other action by the Debenture Trustee, unless and until the Debenture Trustee has received written notice thereof from the REIT, any Debentureholder or any Senior Creditor.

## **5.10 Debenture Trustee May Hold Senior Indebtedness**

The Debenture Trustee is entitled to all the rights set forth in this Article 5 with respect to any Senior Indebtedness at the time held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture deprives the Debenture Trustee of any of its rights as such holder.

## **5.11 Rights of Senior Creditors Not Impaired**

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the REIT or by any non-compliance by the REIT with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

## **5.12 Altering the Senior Indebtedness**

The holders of the Senior Indebtedness have the right to extend, renew, modify or amend the terms of the Senior Indebtedness or any security therefor and to release, sell or exchange such security and otherwise to deal freely with the REIT, all without notice to or consent of the Debentureholders or the Debenture Trustee and without affecting the liabilities and obligations of the parties to this Indenture or the Debentureholders or the Debenture Trustee.

## **5.13 Additional Indebtedness**

This Indenture does not restrict the REIT from incurring additional indebtedness, including indebtedness that ranks senior to the Debentures, or otherwise or mortgaging, pledging or charging its properties to secure any indebtedness.

## **5.14 Right of Debentureholder to Convert Not Impaired**

The subordination of the Debentures to the Senior Indebtedness and the provisions of this Article 5 do not impair in any way the right of a Debentureholder to convert its Debentures pursuant to Article 6.

## **5.15 Invalidated Payments**

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this Article 5 shall be reinstated and the provisions of this Article 5 shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give the Senior Creditors any rights or recourses against the Debenture

Trustee or the Debentureholders for amounts paid to the Debentureholders subsequent to such payment or satisfaction in full and prior to such reinstatement.

#### **5.16 Contesting Security**

The Debenture Trustee, for itself and on behalf of the Debentureholders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Security, or the relative priority of the Senior Security.

### **ARTICLE 6 CONVERSION OF DEBENTURES**

#### **6.1 Applicability**

Any Debentures issued hereunder of any series which by their terms are convertible (subject, however, to any applicable restriction on the conversion of Debentures of such series such as those contained in Section 2.4(e)) will be convertible into Freely Tradeable Trust Units or other securities, at such conversion rate or rates, and on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debentures and shall have been expressed in this Indenture, in such Debentures, in an Officer's Certificate, or in a supplemental indenture authorizing or providing for the issue thereof.

Such right of conversion shall extend only to the maximum number of whole Trust Units into which the aggregate principal amount of the Debenture or Debentures surrendered for conversion at any one time by the holder thereof may be converted. Fractional interests in Trust Units shall be adjusted for in the manner provided in Section 6.6.

#### **6.2 Notice of Expiry of Conversion Privilege**

Notice of the expiry of the conversion privileges of any Debentures shall be given to the applicable Debentureholders by or on behalf of the REIT, not more than 60 days' and not less than 30 days' prior to the date fixed for the Time of Expiry, in the manner provided in Section 15.2.

#### **6.3 Revival of Right to Convert**

If the redemption of any Debenture called for redemption by the REIT is not made or the payment of the purchase price of any Debenture which has been tendered in acceptance of an offer by the REIT to purchase Debentures for cancellation is not made, in the case of a redemption upon due surrender of such Debenture or in the case of a purchase on the date on which such purchase is required to be made, as the case may be, then, provided the Time of Expiry has not passed, the right to convert such Debentures shall revive and continue as if such Debenture had not been called for redemption or tendered in acceptance of the REIT's offer, respectively.

#### **6.4 Manner of Exercise of Right to Convert**

- (a) The Debentureholder desiring to convert such Debenture in whole or in part into Trust Units shall surrender such Debenture to the Debenture Trustee at its principal offices in Toronto, Ontario, together with (i) below and, in the case of holder who is a Non-Resident, (ii) below:



- (i) the conversion form on the back of such Debenture, or any other written notice in a form satisfactory to the Debenture Trustee, along with the Debenture to be converted, in either case duly executed by the holder or his executors or administrators or other legal representatives or his or their attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Debenture Trustee, exercising his right to convert such Debenture in accordance with the provisions of this Article 6; provided that with respect to a Global Debenture, the obligation to surrender a Debenture to the Debenture Trustee shall be satisfied if the Debenture Trustee makes notation on the Global Debenture of the principal amount thereof so converted and the Debenture Trustee is provided with all other documentation which it may request; and
- (ii) in the event of a conversion of Debentures held by a Non-Resident, Section 16.19 shall apply.

Thereupon, such Debentureholder or, subject to payment of all applicable stamp or security transfer taxes or other governmental charges and compliance with all reasonable requirements or the Debenture Trustee, his nominee(s) or assignee(s), shall be entitled to be entered in the books of the REIT on the Date of Conversion (or such later date as is specified in Section 6.4(d) as the holder of the number of Trust Units into which such Debenture is convertible in accordance with the provisions of this Article 6 and, as soon as practicable thereafter, the REIT shall deliver to such Debentureholder or, subject as aforesaid, his nominee(s) or assignee(s), a certificate or certificates for such Trust Units and make or cause to be made any payment of interest to which such holder is entitled in accordance with Section 6.4(g) hereof or in respect of fractional Trust Units as provided in Section 6.6.

(b) For the purposes of this Article 6:

- (i) **“Required Withholding Amount”** means the amount that is equal to the Applicable Withholding Rate in respect of a Debenture that its holder desires to convert multiplied by the Deemed Interest Amount in respect of the Debenture as established on or prior to the Date of Conversion in accordance with Section 6.4(d);
- (ii) The **“Applicable Withholding Rate”** in respect of a Debenture means the general rate of withholding tax imposed under paragraph 212(1)(b) of the Tax Act (or any successor provision of similar effect) on payments of interest to non- residents that are not exempted from tax under Part XIII of the Tax Act (currently 25%) unless:
  - (A) the Trustees determine that any Deemed Interest Amount would not be “participating debt interest” as defined in subsection 212(3) of the Tax Act, in which case the Applicable Withholding Rate shall be deemed to be nil in respect of any Debentureholder with whom the Trustees determine that the REIT deals at arm’s length for purposes of the Tax Act, or
  - (B) at least ten Business Days and not more than 30 days prior to the Date of Conversion for the Debenture the holder of the

Debenture both delivers a certificate in writing to the Debenture Trustee and to the Trustees certifying that the Applicable Withholding Rate is nil or is lower than such general rate and provides to the Trustees an explanation in writing for such nil or lower rate of withholding together (where applicable) with supporting documentation, which certificate, explanation and documentation are satisfactory to the Trustees acting reasonably, in which event the Applicable Withholding Rate on the Date of Conversion in respect of such holder (and any other holders whom the Trustees determine in their discretion, are in the same position as such holder) shall be such nil or lower rate;

- (iii) **“Deemed Interest Amount”** means that amount, if any, which for purposes of Part XIII of the Tax Act is, or is deemed to be, paid or credited as interest upon the conversion of a Debenture pursuant to this Article 6. The Deemed Interest Amount on a particular date in respect of a Debenture shall be deemed to be equal to the difference, if any, between (a) the aggregate of its Debenture Consideration FMV on that date and the amount of any cash payment which the holder would be entitled under Section 6.6 to receive on conversion of the Debenture and (b) the price for which such Debenture was originally issued; and
- (iv) **“Debenture Consideration FMV”** for a Debenture on a particular date means the number of whole Trust Units into which the Debenture would be convertible multiplied by the weighted average price per unit for Trust Units for the most recent trading day preceding the particular date on the TSX (or, if the Trust Units are not listed thereon, on such stock exchange on which the Trust Units are listed as may be selected for such purpose by or at the direction or on behalf of the Trustees, or if the Trust Units are not listed on any stock exchange, then on the over-the-counter market). The weighted average shall be determined by dividing the aggregate sale price of all Trust Units sold on the said exchange or market, as the case may be, during such trading day by the total number of Trust Units so sold.
- (c) Any payment of a Required Withholding Amount by a Debentureholder shall be made by providing the Debenture Trustee with a certified cheque or bank draft in immediately available funds in Canadian dollars for such amount. The REIT or the Debenture Trustee, on the written direction of the REIT shall remit such sum, on or before the time required by applicable law, in the manner required by applicable law to the applicable taxing authority or governmental receiver.
- (d) For the purposes of this Article, a Debenture shall be deemed to be surrendered for conversion on the date (herein called the **“Date of Conversion”**) on which it is so surrendered when the register of the Debenture Trustee is open and in accordance with the provisions of this Article or, in the case of a Global Debenture which the Debenture Trustee received notice of and all necessary documentation in respect of the exercise of the conversion rights and, in the case of a Debenture so surrendered by post or other means of transmission, on the date on which it is received by the Debenture Trustee at its office specified in Section 6.4(a); provided that if a Debenture is surrendered for conversion on a

day on which the register of Trust Units is closed, the person or persons entitled to receive Trust Units shall become the holder or holders of record of such Trust Units on the date on which when such register is next reopened.

- (e) Any part, being \$1,000 or an integral multiple thereof, of a Debenture in a denomination in excess of \$1,000 may be converted as provided in this Article and all references in this Indenture to conversion of Debentures shall be deemed to include conversion of such part.
- (f) Upon a holder of any Debenture exercising his or her right of conversion in respect of only a part of the Debenture and surrendering such Debenture to the Debenture Trustee, the Debenture Trustee shall cancel the same and shall without charge forthwith certify and deliver to the holder a new Debenture or Debentures in an aggregate principal amount equal to the unconverted part of the principal amount of the Debenture so surrendered or, with respect to a Global Debenture, the Debenture Trustee shall make notations on the Global Debenture of the principal amount thereof so converted.
- (g) The holder of a Debenture surrendered for conversion in accordance with this Section 6.4 shall be entitled to receive, in addition to the applicable number of Trust Units, accrued and unpaid interest, if any, for the period from the last Interest Payment Date (or the date of issue if no interest has yet been paid with respect to the Debentures) to and including the last record date declared, prior to the Date of Conversion, for determining the holders of Trust Units entitled to receive a distribution on the Trust Units; provided that, in the event distributions have been suspended or a public announcement has been made giving notice of the suspension of regular distributions to holders of Trust Units prior to the applicable Date of Conversion, and such suspension is in effect on such Date of Conversion, such holder, in addition to the applicable number of Trust Units to be received on conversion, will be entitled to receive accrued and unpaid interest for the period from the last Interest Payment Date prior to the Date of Conversion (or the date of issue if no interest has yet been paid on the Debentures) to the Date of Conversion. The Trust Units issued upon such conversion shall rank only in respect of distributions declared in favour of unitholders of record on the Date of Conversion or such later date as such holder shall become the holder of record of such Trust Units pursuant to Section 6.4(d), from which applicable date they will for all purposes be and be deemed to be issued and outstanding as fully paid and non-assessable Trust Units.
- (h) Notwithstanding any other provisions of this Indenture, if a Debenture is surrendered for conversion on an Interest Payment Date or during the five preceding Business Days, the person or persons entitled to receive Trust Units in respect of the Debenture so surrendered for conversion shall not become the holder or holders of record of such Trust Units until the Business Day following such Interest Payment Date. For greater certainty, until such time as such person or persons become the holder or holders of record of such Trust Units, the person or persons remain entitled to receive interest on the Interest Payment Date.
- (i) Nothing in this Section 6.4 shall derogate from the rights contemplated by Section 2.16 or Section 16.19 nor shall it in any way affect the right of the REIT to withhold and facilitate a sale as contemplated in Section 2.16.

- (j) For greater certainty, the Trustees shall be solely responsible for any calculations and verification of the documentation submitted under Section 6.4. The Debenture Trustee shall be protected in relying fully on any such calculations and instructions provided to them by the Trustees in accordance with such Section.

## **6.5 Adjustment of Conversion Price**

The Conversion Price in effect at any date shall be subject to adjustment from time to time as set forth below.

- (a) If and whenever at any time prior to the Time of Expiry the REIT shall (i) subdivide or redivide the outstanding Trust Units into a greater number of units, (ii) reduce, combine or consolidate the outstanding Trust Units into a smaller number of units, or (iii) issue Trust Units or securities convertible into or exchangeable for Trust Units to the holders of all or substantially all of the outstanding Trust Units by way of a distribution (other than the issue of Trust Units to holders of Trust Units who have elected to receive distributions in the form of Trust Units in lieu of cash distributions paid in the ordinary course on the Trust Units), the Conversion Price in effect on the effective date of such subdivision, redivision, reduction, combination or consolidation or on the record date for such issue of Trust Units by way of a distribution, as the case may be, shall in the case of any of the events referred to in (i) and (iii) above be decreased in proportion to the number of outstanding Trust Units resulting from such subdivision, redivision or distribution, or shall, in the case of any of the events referred to in (ii) above, be increased in proportion to the number of outstanding Trust Units resulting from such reduction, combination or consolidation. Such adjustment shall be made successively whenever any event referred to in this Section 6.5(a) shall occur. Any such issue of Trust Units by way of a distribution shall be deemed to have been made on the record date for the distribution for the purpose of calculating the number of outstanding Trust Units under Sections 6.5(b) and 6.5(c).
- (b) If and whenever at any time prior to the Time of Expiry the REIT shall fix a record date for the issuance of options, rights or warrants to the holders of all or substantially all of its outstanding Trust Units entitling them, for a period expiring not more than 45 days after such record date, to subscribe for or purchase (i) Trust Units at a price per Trust Unit of less than 95% of the Current Market Price of a Trust Unit on such record date or (ii) securities convertible or exchangeable into Trust Units at a conversion or exchange price per Trust Unit, as the case may be, of less than 95% of the Current Market Price of a Trust Unit on such record date, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Trust Units outstanding on such record date plus a number of Trust Units equal to the quotient obtained by dividing the aggregate price of the total number of additional Trust Units offered for subscription or purchase (or the aggregate conversion or exchange price of the convertible or exchangeable securities so offered) by such Current Market Price per Trust Unit, and of which the denominator shall be the total number of Trust Units outstanding on such record date plus the total number of additional Trust Units offered for subscription or purchase (or into which the convertible or

exchangeable securities so offered are convertible or exchangeable, as the case may be). Such adjustment shall be made successively whenever such a record date is fixed. To the extent that any such options, rights or warrants are not so issued or any such options, rights or warrants are not exercised prior to the expiration thereof, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect if only the number of Trust Units (or securities convertible into Trust Units) actually issued upon the exercise of such options, rights or warrants were included in such fraction, as the case may be.

- (c) If and whenever at any time prior to the Time of Expiry the REIT shall fix a record date for the making of a distribution to the holders of all or substantially all of its outstanding Trust Units of (i) units of any class other than Trust Units (other than units distributed to holders of Trust Units who have elected pursuant to any distribution reinvestment or unit purchase plans or similar arrangements of the REIT to receive distributions in the form of such units in lieu of distributions paid in the ordinary course which, for greater certainty, include any additional or bonus distributions payable to holders who have so elected), (ii) rights, options or warrants (excluding rights, options or warrants entitling the holders thereof as at a specified date to subscribe for or purchase Trust Units or securities convertible into Trust Units for a period of not more than 45 days after such date), (iii) evidences of its indebtedness, or (iv) assets (excluding distributions paid in the ordinary course) then, in each such case, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Trust Units outstanding on such record date multiplied by the Current Market Price per Trust Unit on such record date, less the fair market value (as determined by the Trustees, which determination shall be conclusive) of such units, rights, options, warrants, evidences of indebtedness or assets so distributed, and of which the denominator shall be the total number of Trust Units outstanding on such record date multiplied by such Current Market Price per Trust Unit. Such adjustment shall be made successively whenever such a record date is fixed. To the extent that such distribution is not so made, the Conversion Price shall be re-adjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect if only such units, rights, options, warrants, evidences of indebtedness or assets actually distributed were included in such fraction, as the case may be. In clause (iv) of this Section 6.5(c) the term “distributions paid in the ordinary course” shall include the value of any securities or other property or assets distributed in lieu of cash distributions paid in the ordinary course at the option of unitholders.
- (d) If and whenever at any time prior to the Time of Expiry, there is a reclassification of the Trust Units or a capital reorganization of the REIT other than as described in Section 6.5(a) or an amalgamation, arrangement or merger of the REIT or a similar transaction with or into any other person or other entity or a sale or conveyance of the property and assets of the REIT as an entirety or substantially as an entirety to any other person or other entity or a liquidation, dissolution or winding-up or other similar transaction of the REIT, any Debentureholder who has not exercised its right of conversion prior to the effective date of such

reclassification, capital reorganization, amalgamation, arrangement, merger, sale, conveyance, liquidation, dissolution or winding-up or such other similar transaction, upon the exercise of such right thereafter, shall be entitled to receive and shall accept, in lieu of the number of Trust Units then sought to be acquired by it, the number of trust units, shares or other securities or assets of the REIT or of the person or other entity resulting from such reclassification, capital reorganization, amalgamation, arrangement or merger or similar transaction, or to which such sale or conveyance may be made or which holders of Trust Units receive pursuant to such liquidation, dissolution or winding-up or such other similar transaction, as the case may be, that such Debentureholder would have been entitled to receive on such reclassification, capital reorganization, amalgamation, arrangement, merger, sale, conveyance, liquidation, dissolution or winding-up or such other similar transaction, if, on the record date or the effective date thereof, as the case may be, the holder had been the registered holder of the number of Trust Units sought to be acquired by it and to which it was entitled to acquire upon the exercise of the conversion right. If determined appropriate by the Trustees, to give effect to or to evidence the provisions of this Section 6.5(d), the REIT, its successor, or such purchasing person or other entity, as the case may be, shall, prior to or contemporaneously with any such reclassification, capital reorganization, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up or such other similar transaction, enter into an indenture which shall provide, to the extent possible, for the application of the provisions set forth in this Indenture with respect to the rights and interests thereafter of the Debentureholder to the end that the provisions set forth in this Indenture shall thereafter correspondingly be made applicable, as nearly as may reasonably be, with respect to any trust units, shares or other securities or property to which a Debentureholder is entitled on the exercise of its conversion rights thereafter. Any indenture entered into between the REIT and the Debenture Trustee pursuant to the provisions of this Section 6.5(d) shall be a supplemental indenture entered into pursuant to the provisions of Article 17. Any indenture entered into between the REIT, any successor to the REIT or such purchasing person or other entity and the Debenture Trustee shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 6.5 and which shall apply to successive reclassifications, capital reorganizations, amalgamations, arrangements, mergers, sales or conveyances or to a liquidation, dissolution or winding-up or other similar transaction.

- (e) In any case in which this Section 6.5 shall require that an adjustment shall become effective immediately after a record date for an event referred to herein, the REIT may defer, until the occurrence of such event, issuing to the holder of any Debenture converted after such record date and before the occurrence of such event the additional Trust Units issuable upon such conversion by reason of the adjustment required by such event; provided, however, that the REIT shall deliver to such holder an appropriate instrument evidencing such holder's right to receive such additional Trust Units upon the occurrence of the event requiring such adjustment and the right to receive any distributions made on such additional Trust Units declared in favour of holders of record of Trust Units on and after the Date of Conversion or such later date as such holder would, but for the provisions of this Section 6.5(e), have become the holder of record of such additional Trust Units pursuant to Section 6.5(d).



- (f) The adjustments provided for in this Section 6.5 are cumulative and shall apply to successive subdivisions, redivisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this Section 6.5, provided that, notwithstanding any other provision of this Section 6.5, no adjustment of the Conversion Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Conversion Price then in effect; and provided further however, that any adjustments which by reason of this Section 6.5(f) are not required to be made shall be carried forward and taken into account in any subsequent adjustment.
- (g) For the purpose of calculating the number of Trust Units outstanding, Trust Units owned by or for the benefit of the REIT or any Subsidiary of the REIT shall not be counted.
- (h) In the event of any question arising with respect to the adjustments provided in this Section 6.5, such question shall be conclusively determined by a firm of nationally recognized chartered accountants appointed by the REIT and reasonably acceptable to the Debenture Trustee (who may be the Auditors of the REIT); such accountants shall have access to all necessary records of the REIT and such determination shall be binding upon the REIT, the Debenture Trustee, and the Debentureholders (subject to manifest error).
- (i) In case the REIT shall take any action affecting the Trust Units other than action described in this Section 6.5, which in the opinion of the Trustees, would materially affect the rights of Debentureholders, the Conversion Price shall be adjusted in such manner and at such time, by action of the Trustees, subject to the prior written consent of the TSX or such other exchange on which the Debentures are then listed, as the Trustees, in their sole discretion may determine to be equitable in the circumstances. Failure of the Trustees to make such an adjustment shall be conclusive evidence that they have determined that it is equitable to make no adjustment in the circumstances.
- (j) Subject to the prior written consent of the TSX or such other exchange on which the Debentures are then listed, no adjustment in the Conversion Price shall be made in respect of any event described in Sections 6.5(a), 6.5(b) or 6.5(c) (other than a subdivision, redivision, reduction, combination or consolidation of its Trust Units) if the holders of the Debentures are entitled to participate in such event on the same terms *mutatis mutandis* as if they had converted their Debentures prior to the effective date or record date, as the case may be, of such event.
- (k) Except as stated above in this Section 6.5, no adjustment will be made in the Conversion Price for any Debentures as a result of the issuance of Trust Units at less than the Current Market Price for such Trust Units on the date of issuance or the then applicable Conversion Price.

## **6.6 No Requirement to Issue Fractional Trust Units**

The REIT shall not be required to issue fractional Trust Units upon the conversion of Debentures pursuant to this Article 6. If more than one Debenture shall be surrendered for conversion at one time by the same holder, the number of whole Trust Units issuable upon conversion thereof shall



be computed on the basis of the aggregate principal amount of such Debentures to be converted. If any fractional interest in a Trust Unit would, except for the provisions of this Section 6.6, be deliverable upon the conversion of any principal amount of Debentures, the REIT shall, in lieu of delivering any certificate representing such fractional interest, make a cash payment to the holder of such Debenture of an amount equal to the fractional interest which would have been issuable multiplied by the Current Market Price (net of any applicable withholding taxes). Upon request by the Debenture Trustee, the REIT shall provide, in writing to the Debenture Trustee, the price to be paid in respect of such fractional Trust Units.

#### **6.7 REIT to Reserve Trust Units**

The REIT covenants with the Debenture Trustee that it will at all times reserve and keep available out of its authorized Trust Units, solely for the purpose of issue upon conversion of Debentures as in this Article 6 provided, and conditionally allot to Debentureholders who may exercise their conversion rights hereunder, such number of Trust Units as shall then be issuable upon the conversion of all outstanding Debentures. The REIT covenants with the Debenture Trustee that all Trust Units which shall be so issuable shall be duly and validly issued as fully paid, non-assessable and Freely Tradeable.

#### **6.8 Cancellation of Converted Debentures**

Subject to the provisions of Section 6.4(c) as to Debentures converted in part, all Debentures converted in whole or in part under the provisions of this Article 6 shall be delivered in accordance with Section 6.4(a) to and cancelled by the Debenture Trustee and no Debenture shall be issued in substitution therefor.

#### **6.9 Certificate as to Adjustment**

The REIT shall from time to time immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Section 6.5, deliver an Officer's Certificate to the Debenture Trustee specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based, which certificate and the amount of the adjustment specified therein shall be verified by an opinion of a firm of nationally recognized chartered accountants appointed by the REIT and acceptable to the Debenture Trustee (who may be the Auditors of the REIT) and shall be conclusive and binding on all parties in interest (subject to manifest error). When so approved, the REIT shall, except in respect of any subdivision, redivision, reduction, combination or consolidation of the Trust Units, forthwith give notice to the Debentureholders in the manner provided in Section 15.2 specifying the event requiring such adjustment or readjustment and the results thereof, including the resulting Conversion Price; provided that, if the REIT has given notice otherwise than under this Section 6.9 covering all the relevant facts in respect of such event, no such notice need be given under this Section 6.9.

#### **6.10 Notice of Special Matters**

The REIT covenants with the Debenture Trustee that so long as any Debenture remains outstanding, it will give notice to the Debenture Trustee, and to the Debentureholders in the manner provided in Section 15.2, of its intention to fix a record date for any event referred to in Section 6.5(a), 6.5(b) or 6.5(c) (other than a subdivision, redivision, reduction, combination or consolidation of its Trust Units) which may give rise to an adjustment in the Conversion Price, and, in each case, such notice shall specify the particulars of such event and the record date and

the effective date for such event; provided that the REIT shall only be required to specify in such notice such particulars of such event as shall have been fixed and determined on the date on which such notice is given. Such notice shall be given not less than fourteen (14) days, in each case, prior to such applicable record date.

#### **6.11 Protection of Debenture Trustee**

The Debenture Trustee:

- (a) shall be entitled to rely on any adjustment calculation of the REIT, the Trustees and/or the REIT's Auditors;
- (b) shall not at any time be under any duty or responsibility to any Debentureholder to determine whether any facts exist which may require any adjustment in the Conversion Price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed in making the same;
- (c) shall not be accountable with respect to the validity or value (or the kind or amount) of any Trust Units or of any units, shares or other securities or property which may at any time be issued or delivered upon the conversion of any Debenture; and
- (d) shall not be responsible for any failure of the REIT to make any cash payment or to issue, transfer or deliver Trust Units or other securities certificates upon the surrender of any Debenture for the purpose of conversion, or to comply with any of the covenants contained in this Article 6.

#### **6.12 U.S. Legend on Trust Units**

Each certificate representing Trust Units issued upon conversion of Debentures pursuant to this Article 6 bearing the U.S. Legend set forth in Section 2.14, as well as all certificates issued in exchange for or in substitution of the foregoing securities, shall also bear the U.S. Legend set forth in Section 2.14; provided that if the Trust Units are being sold outside the United States in accordance with Rule 904 of Regulation S, and provided that the REIT is a "foreign issuer" within the meaning of Regulation S at the time of sale, the U.S. Legend may be removed by providing a declaration to the REIT's registrar and transfer agent for the Trust Units, as set forth in Schedule "D" (or as the REIT may prescribe from time to time); and provided further that, if any such securities are being sold within the United States in accordance with Rule 144A, the U.S. Legend may be removed by delivery to the REIT's registrar and transfer agent of an opinion of counsel, of recognized standing in form and substance reasonably satisfactory to the REIT, that the U.S. Legend is no longer required under applicable requirements of the 1933 Act or U.S. state securities laws. Provided that the Debenture Trustee obtains confirmation from the REIT that such counsel is satisfactory to it, it shall be entitled to rely on such opinion of counsel without further inquiry.

**ARTICLE 7**  
**LIMITATION ON NON-RESIDENT OWNERSHIP**

**7.1 Limitation on Non-Resident Ownership**

- (a) At no time may (i) non-residents of Canada (within the meaning of the Tax Act), (ii) partnerships that are not “Canadian partnerships” within the meaning of the Tax Act or (iii) a combination of non-residents and such partnerships (collectively, the “**Non- Residents**”) be the beneficial owners of more than 49% of the Trust Units then outstanding (on a diluted basis assuming conversion of all Debentures into Trust Units, exchange for Trust Units of any issued and outstanding subscription receipts offered by the REIT pursuant to the Offering and conversion, exchange or exercise of any securities specified for such purpose in a resolution of the Trustees, an Officer’s Certificate, or in an indenture supplemental hereto (the “**Diluted Basis**”)). The Trustees may require a Debentureholder to provide the Trustees with a declaration as to the jurisdictions in which beneficial owners of Debentures are resident and as to whether such beneficial owners are Non-Residents. If the Trustees become aware, as a result of acquiring such declarations as to beneficial ownership or as a result of any other investigations, that the beneficial owners of 49% of the Trust Units then outstanding (on the Diluted Basis) are, or may be, Non- Residents or that such a situation is imminent, the Trustees may make a public announcement thereof and the Debenture Trustee, upon a Written Direction of the REIT to such effect, shall not issue or register a transfer of Debentures to a person or partnership unless the person or partnership, as the case may be, provides a declaration in form and content satisfactory to the Trustees that the person is not a Non-Resident and does not hold such Debentures for the benefit of Non-Residents.
- (b) If, notwithstanding the foregoing, the Trustees determine that more than 49% of the Trust Units then outstanding (on the Diluted Basis) would be held by Non-Residents, the Trustees may send a notice to such Non-Resident Debentureholders 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 such holders to sell their Debentures or a portion thereof within a specified period of not more than 30 days. If the Debentureholders receiving such notice have not sold the specified number of Debentures or provided the Trustees with satisfactory evidence that they are not Non- Residents within such period, the Trustees may, on behalf of such holders, sell such Debentures without further notice and, in the interim, shall suspend any voting, exchange and economic rights attached to such Debentures (other than the right to receive the net proceeds from the sale). Upon such sale, the affected holders shall cease to be holders of the relevant Debentures and their rights shall be limited to receiving the net proceeds of sale, upon surrender of the certificates, if any, representing such Debentures. The Trustees shall have no liability for the amount received provided that they act in good faith.
- (c) For greater certainty, the REIT may sell Debentures in accordance with the terms hereof despite the fact that the REIT does not possess the certificate representing the Debentures at the time of the sale.

- (d) The Trustees shall have the sole right and authority to make any determination required or contemplated under this Section 7.1. The Trustees shall make all determinations necessary for the administration of the provisions of this Section 7.1 and, without limiting the generality of the foregoing, if the Trustees consider that there are reasonable grounds for believing that a contravention of the Non-Resident ownership restriction has occurred or will occur, the Trustees shall make a determination with respect to the matter. Any such determination shall be conclusive, final and binding except to the extent modified by any subsequent determination by the Trustees. Notwithstanding the foregoing, the Trustees may delegate, in whole or in part, their power to make a determination to any officer of the REIT.
- (e) Notwithstanding the foregoing, the Trustees may determine not to take any of the actions described above if the Trustees have been advised by Counsel to the REIT that the failure to take any of such actions would not adversely impact the status of the REIT as a “mutual fund trust” for purposes of the Tax Act or, alternatively, may take such other action or actions as may be necessary to maintain the status of the REIT as a “mutual fund trust” for purposes of the Tax Act.

## **ARTICLE 8 COVENANTS OF THE REIT**

The REIT hereby covenants and agrees with the Debenture Trustee for the benefit of the Debenture Trustee and the Debentureholders, that so long as any Debentures remain outstanding:

### **8.1 General Covenants**

The REIT will duly and punctually pay or cause to be paid to every Debentureholder the principal of, premium, if any, and interest accrued on the Debentures of which it is the holder on the dates, at the places and in the manner mentioned herein and in the Debentures and will duly and punctually perform and carry out all of the other acts or things to be done by it, all as provided herein or in the Debentures.

### **8.2 To Pay Debenture Trustee’s Remuneration**

The REIT will pay the Debenture Trustee amounts in accordance with Section 16.16 herein, and such monies shall be payable out of any funds coming into the possession of the Debenture Trustee in priority to payment of any principal of the Debentures or interest thereon.

### **8.3 To Give Notice of Default**

The REIT shall notify the Debenture Trustee in writing immediately upon obtaining knowledge of any default or Event of Default hereunder.

### **8.4 Preservation of Existence, etc.**

Subject to the express provisions hereof, the REIT will carry on and conduct its activities, and cause its Subsidiaries to carry on and conduct their businesses, in a proper, efficient and business-like manner and in accordance with prudent business practices and, subject to the express provisions hereof, it will do or cause to be done all things necessary to preserve and maintain the

existence of the REIT and its Subsidiaries; provided, however, that, except as otherwise provided in Article 12, nothing herein contained shall prevent the REIT or any of its Subsidiaries from ceasing to own, maintain or operate any premises or property or, in the case of its Subsidiaries, such Subsidiary's business if, in the opinion of the Trustees, it shall be advisable and in the best interests of the REIT.

#### **8.5 Keeping of Books**

The REIT will keep or cause to be kept proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the REIT in accordance with IFRS.

#### **8.6 Maintenance of TSX Listing**

The REIT will use reasonable commercial efforts to maintain (as long as it meets the minimum listing requirements of the TSX) the listing and posting for trading of the Trust Units; provided that, for greater certainty, the foregoing covenant shall not prevent or restrict the REIT from carrying out a transaction to which Article 12 would apply if carried out in compliance with Article 12 even if as a result of such transaction the Trust Units cease to be listed on the TSX.

The REIT will use reasonable commercial efforts to maintain its status as a "reporting issuer", or the equivalent thereof, not in default of Applicable Securities Legislation.

#### **8.7 Annual Certificate of Compliance**

The REIT shall deliver to the Debenture Trustee, within 90 days after the end of each fiscal year of the REIT, an Officer's Certificate as to the knowledge of such officer who executes the Officer's Certificate certifying that after reasonable investigation and inquiry, the REIT has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which would, with the giving of notice, lapse of time or otherwise, constitute an Event of Default hereunder, or if such is not the case, setting forth with reasonable particulars the circumstances of any failure to comply and steps taken or proposed to be taken to eliminate such circumstances and remedy such Event of Default, as the case may be.

#### **8.8 Reporting Requirements**

To the extent not publically available on SEDAR at [www.sedar.com](http://www.sedar.com), the REIT will provide the Debenture Trustee with copies of continuous disclosure documents furnished to its unitholders after the date hereof (including annual consolidated financial statements of the REIT and any reports of the REIT's Auditors thereon) promptly upon the distribution thereof to its unitholders. No obligation shall rest with the Debenture Trustee to analyse such statements or reports (as the case may be) or evaluate the performance of the Trust as indicated therein, in any manner whatsoever.

#### **8.9 No Distributions on Trust Units if Event of Default**

The REIT shall not declare or make any distribution to the holders of its issued and outstanding Trust Units or purchase for cancellation any Trust Units after the occurrence of an Event of Default unless and until such default shall have been cured or waived or shall have ceased to exist.

## **8.10 Performance of Covenants by Debenture Trustee**

If the REIT shall fail to perform any of its covenants contained in this Indenture and such failure has not been cured or rectified within the time permitted by this Indenture, the Debenture Trustee may notify the Debentureholders of such failure on the part of the REIT or may itself perform any of the covenants capable of being performed by it, but shall be under no obligation to do so or to notify the Debentureholders. All sums so expended or advanced by the Debenture Trustee shall be repayable as provided in Section 8.2. No such performance, expenditure or advance by the Debenture Trustee shall be deemed to relieve the REIT of any default hereunder.

## **ARTICLE 9 DEFAULT AND CONTRACTUAL RIGHT OF RESCISSION**

### **9.1 Events of Default**

Each of the following events constitutes, and is herein sometimes referred to as, an “**Event of Default**”.

- (a) failure for 15 days to pay interest on the Debentures when due;
- (b) failure to pay principal or premium, if any, on the Debentures when due whether at maturity, upon redemption, by declaration, acceleration or otherwise;
- (c) default in the observance or performance of any material covenant or condition of the Indenture by the REIT (other than those referred to in (a) or (b) above) which remains unremedied for a period of 30 days after notice in writing has been given by the Debenture Trustee to the REIT specifying such default and requiring the REIT to remedy such default;
- (d) if a decree or order of a court having jurisdiction is entered adjudging the REIT a bankrupt or insolvent under the *Bankruptcy and Insolvency Act* (Canada) or any other bankruptcy, insolvency or analogous laws of Canada or any province thereof, or issuing sequestration or process of execution against, or against any substantial part of, the property of the REIT, or appointing a receiver of, or of any substantial part of, the property of the REIT or ordering the winding-up or liquidation of its affairs, and any such decree or order continues unstayed and in effect for a period of 60 days;
- (e) if the REIT institutes proceedings to be adjudicated a bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it under the *Bankruptcy and Insolvency Act* (Canada) for such bankruptcy or insolvency or any other bankruptcy, insolvency or analogous laws of Canada or any province thereof, or consents to the filing of any such petition or to the appointment of a receiver, or liquidator or trustee or assignee in bankruptcy or insolvency for it, or of any substantial part of the property of the REIT or makes a general assignment for the benefit of creditors, or is unable to or admits in writing its inability to pay its debts generally as they become due;
- (f) if a resolution is passed for the winding-up or liquidation of the REIT except in the course of carrying out or pursuant to a transaction in respect of which the conditions of Section 12.1 are duly observed and performed; or

- (g) if, after the date of this Indenture, any proceedings with respect to the REIT are taken with respect to a compromise or arrangement, with respect to creditors of the REIT generally, under the applicable legislation of any jurisdiction;

in each and every such event the Debenture Trustee shall, upon receipt of a request in writing signed by the holders of not less than 50% in principal amount of the Debentures then outstanding and upon being funded and indemnified to its reasonable satisfaction against all costs, expenses and liabilities to be incurred, subject to the provisions of Section 9.3, by notice in writing to the REIT declare the principal of, and premium, if any, and accrued interest on all Debentures then outstanding and all other monies outstanding hereunder to be due and payable and the same shall forthwith become immediately due and payable to the Debenture Trustee, and the REIT shall forthwith pay to the Debenture Trustee for the benefit of the Debentureholders such principal of, and premium, if any, accrued and unpaid interest and interest on amounts in default on such Debenture (and, where such a declaration is based upon a voluntary winding-up or liquidation of the REIT, the premium, if any, on the Debentures then outstanding which would have been payable upon the redemption thereof by the REIT on the date of such declaration) and all other monies outstanding hereunder, together with subsequent interest at the rate borne by the Debentures on such principal, interest and such other monies from the date of such declaration until payment is received by the Debenture Trustee, such subsequent interest to be payable at the times and places and in the monies mentioned in and according to the tenor of the Debentures. Such payment when made shall be deemed to have been made in discharge of the REIT's obligations hereunder and any monies so received by the Debenture Trustee shall be applied in the manner provided in Section 9.6.

For greater certainty, for the purposes of this Section 9.1, a series of Debentures shall be in default in respect of an Event of Default if such Event of Default relates to a default in the payment of principal or interest on the Debentures of such series in which case references to Debentures in this Section 9.1 shall refer to Debentures of that particular series.

For the purposes of this Article 9, where the Event of Default refers to an Event of Default with respect to a particular series of Debentures as described in this Section 9.1, then this Article 9 shall apply *mutatis mutandis* to the Debentures of such series and references in this Article 9 to the Debentures shall mean Debentures of the particular series and references to the Debentureholders shall refer to the Debentureholders of the particular series, as applicable.

## **9.2 Notice of Events of Default**

If an Event of Default shall occur and be continuing the Debenture Trustee shall, within 30 days after it receives written notice of the occurrence of such Event of Default, give notice of such Event of Default to the Debentureholders in the manner provided in Section 15.2, provided that notwithstanding the foregoing, unless the Debenture Trustee shall have been requested to do so by the holders of at least 50% of the principal amount of the Debentures then outstanding, the Debenture Trustee shall not be required to give such notice if the Debenture Trustee reasonably and in good faith shall have determined on the advice of Counsel that the withholding of such notice is in the best interests of the Debentureholders and shall have so advised the REIT in writing.

Where notice of the occurrence of an Event of Default has been given and the Event of Default is thereafter cured, notice that the Event of Default is no longer continuing shall be given by the Debenture Trustee to the Debentureholders within 15 days after the Debenture Trustee becomes aware the Event of Default has been cured.



### **9.3 Waiver of Default**

Upon the happening of any Event of Default hereunder:

- (a) the Debentureholders shall have the power (in addition to the powers exercisable by Extraordinary Resolution as hereinafter provided) by requisition in writing by the holders of not less than 66⅔% of the principal amount of Debentures then outstanding or by Extraordinary Resolution of Debentureholders at a meeting held in accordance with Article 14, to instruct the Debenture Trustee to waive any Event of Default and to cancel any declaration made by the Debenture Trustee pursuant to Section 9.1 and the Debenture Trustee shall thereupon waive the Event of Default and cancel such declaration, or either, upon such terms and conditions as shall be prescribed in such requisition; provided that notwithstanding the foregoing if the Event of Default has occurred by reason of the non-observance or non-performance by the REIT of any covenant applicable only to one or more series of Debentures, then the holders of not less than 66⅔% of the principal amount of the outstanding Debentures of that series shall be entitled to exercise the foregoing power and the Debenture Trustee shall so act and it shall not be necessary to obtain a waiver from the holders of any other series of Debentures; and
- (b) the Debenture Trustee, so long as it has not become bound to declare the principal and interest on the Debentures then outstanding to be due and payable, or to obtain or enforce payment of the same, shall have power to waive any Event of Default if, in the Debenture Trustee's opinion, the same shall have been cured or adequate satisfaction made therefor, and in such event to cancel any such declaration theretofore made by the Debenture Trustee in the exercise of its discretion, upon such terms and conditions as the Debenture Trustee may deem advisable.

No such act or omission either of the Debenture Trustee or of the Debentureholders shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

### **9.4 Enforcement by the Debenture Trustee**

Subject to the provisions of Section 9.3 and to the provisions of any Extraordinary Resolution that may be passed by the Debentureholders, if the REIT shall fail to pay to the Debenture Trustee, forthwith after the same shall have been declared to be due and payable under Section 9.1, the principal of and premium (if any) and interest on all Debentures then outstanding, together with any other amounts due hereunder, the Debenture Trustee shall upon receipt of a request in writing signed by the holders of not less than 50% in principal amount of the Debentures then outstanding and upon being funded and indemnified to its reasonable satisfaction against all costs, expenses and liabilities to be incurred, proceed in its name as trustee hereunder to obtain or enforce payment of such principal of and premium (if any) and interest on all the Debentures then outstanding together with any other amounts due hereunder by such proceedings authorized by this Indenture or by law or equity as the Debenture Trustee in such request shall have been directed to take, or if such request contains no such direction, or if the Debenture Trustee shall act without such request, then by such proceedings authorized by this Indenture or by suit at law or in equity as the Debenture Trustee shall deem expedient.

The Debenture Trustee shall be entitled and empowered, either in its own name or as Debenture Trustee of an express trust, or as attorney-in-fact for the Debentureholders, or in any one or more of such capacities, to file such proof of debt, amendment of proof of debt, claim, petition or other document as may be necessary or advisable in order to have the claims of the Debenture Trustee and of the Debentureholders allowed in any insolvency, bankruptcy, liquidation or other judicial proceedings relative to the REIT or its creditors or relative to or affecting its property. The Debenture Trustee is hereby irrevocably appointed (and the successive respective Debentureholders by taking and holding the same shall be conclusively deemed to have so appointed the Debenture Trustee) the true and lawful attorney-in-fact of the respective Debentureholders with authority to make and file in the respective names of the Debentureholders or on behalf of the Debentureholders as a class, subject to deduction from any such claims of the amounts of any claims filed by any of the Debentureholders themselves, any proof of debt, amendment of proof of debt, claim, petition or other document in any such proceedings and to receive payment of any sums becoming distributable on account thereof, and to execute any such other papers and documents and to do and perform any and all such acts and things for and on behalf of such Debentureholders, as may be necessary or advisable in the opinion of the Debenture Trustee, based on the advice of Counsel, in order to have the respective claims of the Debenture Trustee and of the Debentureholders against the REIT or its property allowed in any such proceeding, and to receive payment of or on account of such claims; provided, however, that subject to Section 9.3, nothing contained in this Indenture shall be deemed to give to the Debenture Trustee, unless so authorized by Extraordinary Resolution, any right to accept or consent to any plan of reorganization or otherwise by action of any character in such proceeding to waive or change in any way any right of any Debentureholder.

The Debenture Trustee shall also have the power at any time and from time to time to institute and to maintain such suits and proceedings as it may be advised shall be necessary or advisable to preserve and protect its interests and the interests of the Debentureholders.

All rights of action hereunder may be enforced by the Debenture Trustee without the possession of any of the Debentures or the production thereof on the trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Debenture Trustee shall be brought in the name of the Debenture Trustee as trustee of an express trust, and any recovery of judgment shall be for the rateable benefit of the holders of Debentures subject to the provisions of this Indenture. In any proceeding brought by the Debenture Trustee (and also any proceeding in which a declaratory judgment of a court may be sought as to the interpretation or construction of any provision of this Indenture, to which the Debenture Trustee shall be a party) the Debenture Trustee shall be held to represent all the Debentureholders, and it shall not be necessary to make any Debentureholders parties to any such proceeding.

## **9.5 No Suits by Debentureholders**

No Debentureholder shall have any right to institute any action, suit or proceeding at law or in equity for the purpose of enforcing payment of the principal of or premium (if any) interest on the Debentures or for the execution of any trust or power hereunder or for the appointment of a liquidator or receiver or for a receiving order under the *Bankruptcy and Insolvency Act* (Canada) or to have the REIT wound up or to file or prove a claim in any liquidation or bankruptcy proceeding or for any other remedy hereunder, unless: (a) such holder shall previously have given to the Debenture Trustee written notice of the happening (or continuance) of an Event of Default hereunder; and (b) the Debentureholders by Extraordinary Resolution or by written instrument signed by the holders of at least 25% in principal amount of the Debentures then outstanding shall have made a request to the Debenture Trustee and the Debenture Trustee shall have been afforded

reasonable opportunity either itself to proceed to exercise the powers hereinbefore granted or to institute an action, suit or proceeding in its name for such purpose; and (c) the Debentureholders or any of them shall have furnished to the Debenture Trustee, when so requested by the Debenture Trustee, sufficient funds and security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and (d) the Debenture Trustee shall have failed to act within 30 days after such notification, request, funding and offer of indemnity and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Debenture Trustee, to be conditions precedent to any such proceeding or for any other remedy hereunder by or on behalf of the holder of any Debentures.

## **9.6 Application of Monies by Debenture Trustee**

- (a) Except as herein otherwise expressly provided, any monies received by the Debenture Trustee from the REIT pursuant to the foregoing provisions of this Article 9, or as a result of legal or other proceedings or from any trustee in bankruptcy or liquidator of the REIT, shall be applied, together with any other monies in the hands of the Debenture Trustee available for such purpose, as follows:
  - (i) first, in payment or in reimbursement to the Debenture Trustee of its compensation, costs, charges, expenses, borrowings, advances or other monies furnished or provided by or at the instance of the Debenture Trustee in or about the execution of its trusts under, or otherwise in relation to, this Indenture, with interest thereon as herein provided;
  - (ii) second, but subject as hereinafter in this Section 9.6 provided, in payment, rateably and proportionately to the Debentureholders, of the principal of and premium (if any) and accrued and unpaid interest and interest on amounts in default on the Debentures which shall then be outstanding in the priority of principal first and then premium and then accrued and unpaid interest and interest on amounts in default unless otherwise directed by Extraordinary Resolution and in that case in such order or priority as between principal, premium (if any) and interest as may be directed by such resolution; and
  - (iii) third, in payment of the surplus, if any, of such monies to the REIT or its assigns or as it may direct;

provided, however, that no payment shall be made pursuant to clause (ii) above in respect of the principal, premium or interest on any Debenture held, directly or indirectly, by or for the benefit of the REIT or any Subsidiary (other than any Debenture pledged for value and in good faith to a person other than the REIT or any Subsidiary but only to the extent of such person's interest therein) except subject to the prior payment in full of the principal, premium (if any) and interest (if any) on all Debentures which are not so held and that if the amounts (or any portion thereof) to which a Debentureholder is entitled are subject to withholding taxes, the Debenture Trustee on the direction of the REIT, shall remit such taxes on behalf of the REIT to the proper tax authorities within the period of time prescribed for this purpose under applicable laws.

- (b) The Debenture Trustee shall not be bound to apply or make any partial or interim payment of any monies coming into its hands if the amount so received by it,

after reserving thereout such amount as the Debenture Trustee may think necessary to provide for the payments mentioned in Section 9.6(a)(i), is insufficient to make a distribution of at least 2% of the aggregate principal amount of the outstanding Debentures, but it may retain the money so received by it and invest or deposit the same as provided in Section 16.9 until the money or the investments representing the same, with the income derived therefrom, together with any other monies for the time being under its control shall be sufficient for the said purpose or until it shall consider it advisable to apply the same in the manner hereinbefore set forth. The foregoing shall, however, not apply to a final payment or distribution hereunder.

#### **9.7 Notice of Payment by Debenture Trustee**

Not less than fifteen days' notice shall be given in the manner provided in Section 15.2 by the Debenture Trustee to the Debentureholders of any payment to be made under this Article 9. Such notice shall state the time and place at which such payment is to be made and also the liability under this Indenture to which it is to be applied. After the day so fixed, unless payment shall have been duly demanded and have been refused, the Debentureholders will be entitled to interest only on the balance (if any) of the principal monies, premium (if any) and interest due (if any) to them, respectively, on the Debentures, after deduction of the respective amounts payable in respect thereof on the day so fixed.

#### **9.8 Debenture Trustee May Demand Production of Debentures**

The Debenture Trustee shall have the right to demand production of the Debentures in respect of which any payment of principal, interest or premium required by this Article 9 is made and may cause to be endorsed on the same, a memorandum of the amount so paid and the date of payment, but the Debenture Trustee may, in its discretion, dispense with such production and endorsement, upon such indemnity being given to it and to the REIT as the Debenture Trustee shall deem sufficient.

#### **9.9 Remedies Cumulative**

No remedy herein conferred upon or reserved to the Debenture Trustee, or upon or to the Debentureholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by law or by statute.

#### **9.10 Judgment Against the REIT**

The REIT covenants and agrees with the Debenture Trustee that, in case of any judicial or other proceedings to enforce the rights of the Debentureholders, judgment may be rendered against it in favour of the Debentureholders or in favour of the Debenture Trustee, as trustee for the Debentureholders, for any amount which may remain due in respect of the Debentures and premium (if any) and the interest thereon and any other monies owing hereunder.

#### **9.11 Immunity of Trustees and Others**

The Debentureholders and the Debenture Trustee hereby waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future officer, Trustee or holder of Trust Units or of any successor, in each case in such capacity, for the

payment of the principal of or premium or interest on any of the Debentures or on any covenant, agreement, representation or warranty by the REIT herein contained or in the Debentures.

#### **9.12 Right of Rescission**

Original purchasers of Initial Debentures will have a non-assignable contractual right of rescission, exercisable against the REIT following the issuance of Trust Units to such purchaser pursuant to the exercise of the Debenture conversion privilege, to receive the Offering Price of each such Initial Debenture if the Prospectus (including the documents incorporated therein by reference) or any amendment thereto contains a misrepresentation (within the meaning of the *Securities Act* (Ontario)), provided such remedy for rescission is exercised within 180 days of the closing of the Offering, following which this contractual right of rescission will be null and void. This contractual right of rescission shall be subject to the defences, limitations and other provisions described under part XXIII of the *Securities Act* (Ontario), and is in addition to any other right or remedy available to original purchasers of Initial Debentures under section 130 of the *Securities Act* (Ontario) or otherwise at law. For greater certainty, this contractual right of rescission is only in connection with a misrepresentation (within the meaning of the *Securities Act* (Ontario)) and is not a right to withdraw from an agreement to purchase securities within two Business Days as provided in securities legislation in certain provinces and territories of Canada.

### **ARTICLE 10 SATISFACTION AND DISCHARGE**

#### **10.1 Cancellation and Destruction**

All Debentures shall forthwith after payment of all obligations thereunder be delivered to the Debenture Trustee and cancelled by it. All Debentures cancelled or required to be cancelled under this or any other provision of this Indenture shall be destroyed by the Debenture Trustee and, if requested in writing by the REIT, the Debenture Trustee shall furnish to it a destruction certificate setting out the designating numbers of the Debentures so destroyed.

#### **10.2 Non-Presentation of Debentures**

In case the holder of any Debenture shall fail to present the same for payment (including payment in monies or Trust Units) on the date on which the principal, premium (if any) or the interest thereon or represented thereby becomes payable either at maturity or otherwise or shall not accept payment on account thereof and give such receipt therefor, if any, as the Debenture Trustee may require:

- (a) the REIT shall be entitled to pay or deliver to the Debenture Trustee and direct it to set aside; or
- (b) in respect of monies or Trust Units in the hands of the Debenture Trustee which may or should be applied to the payment of the Debentures, the REIT shall be entitled to direct the Debenture Trustee to set aside; or
- (c) if the redemption was pursuant to notice given by the Debenture Trustee, the Debenture Trustee may itself set aside;

subject always to the provisions of Section 10.3, the principal, premium (if any), interest or Trust Units, as the case may be, in trust, without interest thereon from the date on which such principal,

premium (if any), interest or Trust Units became payable, either in the deposit department of the Debenture Trustee or in a chartered bank (which may, but need not be, an affiliate of the Debenture Trustee), to be paid to the holder of such Debenture upon due presentation or surrender thereof in accordance with the provisions of this Indenture; and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the sum so set aside and, to that extent, the Debenture shall thereafter not be considered as outstanding hereunder and the Debentureholder shall have no other right except to receive payment out of the monies so paid and set aside, or to take delivery out of the certificates so set aside or substitutions therefor, or both, upon surrender and delivery of such holder's Debenture, of the principal, premium (if any), interest or Trust Units payable in respect of such Debenture, plus all distributions (including unit distributions and distributions in kind), if any, on the Trust Units so set aside or substitutions therefor, arising after the date on which such Trust Units became payable, as applicable in respect of such Debenture, and in the event that the Debenture Trustee receives the same, it shall hold the same in trust for the benefit of such holder.

### **10.3 Repayment of Unclaimed Monies or Trust Units**

Subject to applicable law, in the event that any money, or certificates, required to be set aside under Section 10.2 shall remain so set aside for a period of six years from the date of such setting aside such monies, or certificates or substitutions for certificates, together with any distributions (including unit distributions and distributions in kind) thereon, shall at the end of such period, upon the written request of the REIT, be paid over or delivered over by the Debenture Trustee to the REIT, and thereupon the Debenture Trustee shall not be responsible to Debentureholders for any amounts owing to them, shall be released from all further liability with respect to such monies or certificates, if applicable, and, subject to applicable law, thereafter the Debentureholder in respect of which such money or certificates, if applicable, was so repaid to the REIT shall have no rights in respect thereof except to obtain payment of the money or certificates, if applicable, due from the REIT, subject to any limitation period provided by the laws of Ontario.

### **10.4 Discharge**

The Debenture Trustee shall, at the written request of the REIT, release and discharge this Indenture and execute and deliver such instruments as it shall be advised by Counsel are requisite for that purpose and to release the REIT from its covenants herein contained (other than the provisions relating to the indemnification of the Debenture Trustee), upon proof being given to the reasonable satisfaction of the Debenture Trustee that the principal and premium (if any) of and interest (including interest on amounts in default, if any), on all the Debentures and all other monies payable hereunder have been paid or satisfied or that all the Debentures having matured or having been duly called for redemption, payment of the principal of and interest (including interest on amounts in default, if any) on such Debentures and of all other monies payable hereunder has been duly and effectually provided for in accordance with the provisions hereof.

### **10.5 Satisfaction**

- (a) The REIT shall be deemed to have fully paid, satisfied and discharged all of the outstanding Debentures of any series and the Debenture Trustee, at the expense of the REIT, shall execute and deliver proper instruments acknowledging the full payment, satisfaction and discharge of such Debentures, when, with respect to all of the outstanding Debentures or all of the outstanding Debentures of any series, as applicable, either:



- (i) the REIT has deposited or caused to be deposited with the Debenture Trustee as trust funds or property in trust for the purpose of making payment on such Debentures, an amount in money or Trust Units, if applicable, sufficient to pay, satisfy and discharge the entire amount of principal, premium, if any, and interest, if any, to maturity or any repayment date or Redemption Dates, as the case may be, of such Debentures; or
- (ii) the REIT has deposited or caused to be deposited with the Debenture Trustee as trust property in trust for the purpose of making payment on such Debentures:
  - (A) if the Debentures are issued in Canadian dollars, such amount in Canadian dollars of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada or Trust Units, if applicable; or
  - (B) if the Debentures are issued in a currency or currency unit other than Canadian dollars, cash in the currency or currency unit in which the Debentures are payable and/or such amount in such currency or currency unit of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada or the government that issued the currency or currency unit in which the Debentures are payable or Trust Units, if applicable;

as will, together with the income to accrue thereon and reinvestment thereof, be sufficient in the opinion of a nationally recognized investment bank, appraisal firm, or firm of independent public accountants, to pay and discharge the entire amount of principal and accrued and unpaid interest to maturity or any repayment date, as the case may be, of all such Debentures;

and in either event:

- (iii) the REIT has paid, caused to be paid or made provisions to the satisfaction of the Debenture Trustee for the payment of all other sums payable with respect to all of such Debentures (together with all applicable compensation and expenses of the Debenture Trustee in connection with the payment of such Debentures);
- (iv) the REIT has delivered to the Debenture Trustee an Officer's Certificate stating that all conditions precedent herein provided relating to the payment, satisfaction and discharge of all such Debentures have been complied with; and
- (v) the REIT has delivered to the Debenture Trustee either (A) an opinion of counsel in Canada reasonably acceptable to the Debenture Trustee to the effect that, based upon Canadian law then in effect (and taking into account any proposed amendments to Canadian law which, if enacted in the form proposed, would have retroactive effect), the beneficial owners of the Debentures will not recognize income, gain or loss for Canadian



federal, provincial or territorial income and/or withholding tax purposes, as a result of the defeasance and will be subject to Canadian taxes on the same amounts and in the same manner and at the same time as would have been the case if such defeasance had not occurred or (B) a ruling directed to the Debenture Trustee received from tax authorities of Canada to the same effect as the opinion of counsel described in clause (A) above.

Any deposits with the Debenture Trustee referred to in this Section 10.5 shall be irrevocable, subject to Section 10.6, and shall be made under the terms of an escrow and/or trust agreement in form and substance satisfactory to the Debenture Trustee and which provides for the due and punctual payment of the principal of, and interest and premium, if any, on the Debentures being satisfied.

- (b) Upon the satisfaction of the conditions set forth in this Section 10.5 with respect to all the outstanding Debentures, or all the outstanding Debentures of any series, as applicable, the terms and conditions of the Debentures, including the terms and conditions with respect thereto set forth in this Indenture (other than those contained in Article 2, Article 4, Section 9.4 and Section 16.16, the provisions of Article 1 pertaining to the foregoing provisions and this Section 10.5) shall no longer be binding upon or applicable to the REIT.
- (c) Any funds or obligations deposited with the Debenture Trustee pursuant to this Section 10.5 shall be denominated in the currency or denomination of the Debentures in respect of which such deposit is made.
- (d) For greater certainty, if any amount deposited with the Debenture Trustee pursuant to this Section 10.5 (or any portion thereof) is subject to withholding taxes, the Debenture Trustee based on the direction of the REIT shall remit such taxes on behalf of the REIT to the proper tax authorities within the period of time prescribed for this purpose under applicable laws.
- (e) If the Debenture Trustee is unable to apply any money or securities in accordance with this Section 10.5 by reason of any legal proceeding or any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the REIT's obligations under this Indenture and the affected Debentures shall be revived and reinstated as though no money or securities had been deposited pursuant to this Section 10.5 until such time as the Debenture Trustee is permitted to apply all such money or securities in accordance with this Section 10.5, provided that if the REIT has made any payment in respect of principal, premium or interest on Debentures or, as applicable, other amounts because of the reinstatement of its obligations, the REIT shall be subrogated to the rights of the holders of such Debentures to receive such payment from the money or securities held by the Debenture Trustee.

## **10.6 Continuance of Rights, Duties and Obligations and Release of REIT Funds**

- (a) Where trust funds or trust property have been deposited pursuant to Section 10.5, the Debentureholders and the REIT shall continue to have and be subject to their

respective rights, duties and obligations under Article 2 and Article 4, as may be applicable.

- (b) In the event that, after the deposit of trust funds or trust property pursuant to Section 10.5 in respect of a series of Debentures (the “**Defeased Debentures**”), the REIT is required to provide a Change of Control Notice pursuant to Section 2.4(k) in relation to Initial Debentures or to make an offer to purchase Debentures pursuant to any other similar provisions relating to any other series of Debentures, the REIT shall be entitled to use any trust money or trust property deposited with the Debenture Trustee pursuant to Section 10.5 for the purpose of paying to any holders of Defeased Debentures who have accepted any such offer of the REIT, the Total Offer Price payable to such holders in respect of such offer in respect of Initial Debentures (or the total price purchase payable in respect of an offer to purchase relating to any other series of Debentures). Upon receipt of a Written Direction from the REIT, the Debenture Trustee shall be entitled to pay to such holder from such trust money or trust property deposited with the Debenture Trustee pursuant to Section 10.5 in respect of the Defeased Debentures which is applicable to the Defeased Debentures held by such holders who have accepted any such offer (which amount shall be based on the applicable principal amount of the Defeased Debentures held by accepting offerees Debentureholders in relation to the aggregate outstanding principal amount of all the Defeased Debentures).

## **ARTICLE 11**

### **UNIT INTEREST PAYMENT ELECTION**

#### **11.1 Trust Unit Interest Payment Election**

- (a) Provided that no Event of Default has occurred and is continuing under this Indenture and that all applicable regulatory and stock exchange approvals have been obtained (including any required approval of any stock exchange on which the Debentures or Trust Units are then listed), the REIT shall have the right, from time to time, to make a Trust Unit Interest Payment Election in respect of any Interest Obligation and, if the REIT wishes to make such an election, the REIT can only do so by delivering a Trust Unit Interest Payment Election Notice to the Debenture Trustee by no later than the earlier of:
  - (i) the date required by applicable law or the rules of any stock exchange on which the Debentures or Trust Units are then listed; and
  - (ii) the day which is 15 Business Days prior to the Interest Payment Date to which the Trust Unit Interest Payment Election relates;

and each such Trust Unit Interest Payment Election Notice so delivered by the REIT to the Debenture Trustee shall be accompanied by:

- (iii) photocopies of completed Trust Unit Bid Requests addressed to the investment banks, brokers or dealers identified by the REIT, in its absolute discretion, in such Trust Unit Interest Payment Election Notice; and the REIT hereby agrees that:

- (A) the REIT shall send such completed Trust Unit Bid Requests to the respective addressees thereof concurrently with its sending such Trust Unit Interest Payment Election Notice to the Debenture Trustee (or so soon thereafter as may be reasonably practicable having regard to all then prevailing circumstances); and
  - (B) the REIT shall make with each investment bank, broker or dealer to which a Trust Unit Bid Request is so sent all such customary arrangements regarding such Trust Unit Bid Request and the acceptance of the bids made in response thereto and the completion of the transaction resulting from such acceptance as shall be necessary in accordance with customary commercial practices; and
- (iv) an Officer's Certificate certifying to the Debenture Trustee that: (A) no Event of Default has occurred and is then continuing; and (B) that all applicable regulatory approvals (including any required approval of any stock exchange on which the Debentures or Trust Units are then listed) required for the Trust Unit Interest Payment Election to which such Trust Unit Interest Payment Election Notice pertains have been obtained.
- (b) In connection with a Trust Unit Interest Payment Election in respect of which the Debenture Trustee has received a Trust Unit Interest Payment Election Notice, the Debenture Trustee shall:
  - (i) accept from the investment banks, brokers or dealers identified in such Trust Unit Interest Payment Election Notice physical delivery of any bids made by such investment banks, brokers or dealers in response to the Trust Unit Bid Requests made to them, respectively (each such responding bid so made being a "**Response Bid**") and forthwith forward to the REIT all Response Bids so received (it being hereby agreed that the REIT shall: (A) determine which Response Bids are to be accepted; and (B) enter into Trust Unit Purchase Agreements with each Person whose Response Bid was accepted by the REIT and consummate the transactions therein provided for (provided that, payment of the applicable purchase price for the Trust Units issued pursuant to such transactions shall be made directly to the Debenture Trustee as provided for in Section 11.1(f));
  - (ii) accept physical delivery from the REIT (or its transfer agent in that regard, as the case may be) of the certificates evidencing the Trust Units which are to be issued pursuant to those Response Bids which were accepted by the REIT; and deliver such certificates to the respective purchasers thereof in accordance with Section 11.1(g);
  - (iii) invest all proceeds to be received by the Debenture Trustee, as contemplated in Section 11.1(f), on the direction of the REIT in Government Obligations which mature prior to the applicable Interest Payment Date and use the proceeds received from such investment in

Government Obligations to pay the Interest Obligation in respect of which the Trust Unit Interest Payment Election was made; and:

- (A) any such direction made by the REIT which is received by the Debenture Trustee either after 9:00 a.m. (Toronto time) on a Business Day or at any time on a non-Business Day shall be deemed to have been received prior to 9:00 a.m. (Toronto time) on the next immediately following Business Day; and
- (B) the Debenture Trustee is hereby authorized to execute purchases and sales of Government Obligations through the facilities of its own trading or capital markets operations or those of any affiliated entity and the Debenture Trustee or any of its affiliates may receive reasonable compensation with respect to any such purchases and sales of Government Obligations directed hereunder (including without limitation charging an agency fee in connection with each transaction); and the parties hereto recognize and agree that the Debenture Trustee will not provide supervision, recommendations or advice relating to any such purchases and sales of Government Obligations and the Debenture Trustee shall not have any liability for any loss sustained as a result of any such purchases and sales of Government Obligations or as a result of any liquidation of any such Government Obligations prior to their maturity or for the failure of the REIT to give the Debenture Trustee instructions to regarding any such purchases and sales of Government Obligations; and
- (C) perform any other action necessarily incidental thereto that is within the Debenture Trustee's capacity and as the REIT, acting reasonably, may request by a Written Direction of the REIT.

Each Trust Unit Bid Request shall provide that the acceptance of any Response Bid made in response thereto is conditional on the acceptance of sufficient Response Bids to result in aggregate proceeds from the issuance and sale of Trust Units to the Persons which gave accepted Response Bids which, together with the cash payments by the REIT (including any cash in lieu of fractional Trust Units (if any)), is equal in amount to the Interest Obligation on the Trust Unit Delivery Date.

- (c) Each Trust Unit Interest Payment Election Notice shall provide for, and all Response Bids shall be subject to, the right of the REIT, by delivering written notice to the Debenture Trustee and each Person which gave a Response Bid (which notice must be given at any time prior to the consummation of such delivery and sale of the Trust Units on the Trust Unit Delivery Date), to withdraw the Trust Unit Interest Payment Election (which shall have the effect of withdrawing each related Trust Unit Bid Request and cancelling each Response Bid made in response thereto), whereupon the REIT shall be obliged to pay in cash the Interest Obligation in respect of which the Trust Unit Interest Payment Election Notice has been delivered.

- (d) Any sale of Trust Units pursuant to this Article 11 may be made to one or more Persons to which a Trust Unit Bid Request was given, but all such sales with respect to a particular Trust Unit Interest Payment Election shall take place concurrently on the Trust Unit Delivery Date.
- (e) The amount received by a Debentureholder in respect of the Interest Obligation or the entitlement thereto will not be affected by whether or not the REIT elects to satisfy the Interest Obligation, in whole or in part, pursuant to a Trust Unit Interest Payment Election.
- (f) The REIT and each bidder whose Response Bid was accepted by the REIT shall, by not later than the Trust Unit Delivery Date, enter into a Trust Unit Purchase Agreement and shall comply with all Applicable Securities Legislation (including the securities rules and regulations of any stock exchange on which the Debentures or Trust Units are then listed); and, for greater certainty, the whole of the purchase price payable under such Trust Unit Purchase Agreement shall be paid by the purchaser thereunder directly to the Debenture Trustee. The REIT shall pay all fees and expenses in connection with the Trust Unit Purchase Agreements including the fees and commissions charged by the investment banks, brokers and dealers and the reasonable fees of the Debenture Trustee.
- (g) Provided that:
  - (i) all conditions specified in each Trust Unit Purchase Agreement to the closing of all sales thereunder have been satisfied, other than the delivery of the Trust Units to be sold thereunder against payment of the purchase price thereof; and
  - (ii) the purchasers under each Trust Unit Purchase Agreement shall be ready, willing and able to perform thereunder, in each case on the Trust Unit Delivery Date,

the REIT shall, on the Trust Unit Delivery Date, deliver (or cause to be delivered) to the Debenture Trustee the following:

- (iii) certificates representing the Trust Units to be sold on such date, which certificates shall be fully completed and in the form required to be delivered to the respective purchasers thereof;
- (iv) an amount in cash equal to the amount specified as the Trust Unit Interest Payment Election Amount in the applicable Trust Unit Interest Payment Election Notice and the value of any fractional Trust Units; and
- (v) an Officer's Certificate to the effect that all conditions precedent to such sales, including those set forth in this Indenture and in each Trust Unit Purchase Agreement, have been satisfied.

Upon such deliveries, the Debenture Trustee shall, on such Trust Unit Delivery Date, deliver (or cause to be delivered) such certificates representing Trust Units to the applicable purchasers against payment to the Debenture Trustee in immediately available funds of the purchase price therefor in an aggregate amount equal to the Trust Unit

Interest Payment Election Amount (less any amount attributable to any fractional Trust Unit to be paid in cash), whereupon the sole right of a Debentureholder to receive such holder's portion of the Trust Unit Interest Payment Election Amount will be to receive same from the Debenture Trustee out of the proceeds of such sales of Trust Units by the REIT plus any amount received by the Debenture Trustee from the REIT in cash (including any amount attributable to any fractional Trust Units) in full satisfaction of the Interest Obligation and the holder will have no further recourse to either the REIT or the Debenture Trustee in respect of the Interest Obligation.

- (h) The Debenture Trustee shall, on the Trust Unit Delivery Date, use the sale proceeds of the Trust Units received by the Debenture Trustee (together with any cash received by the Debenture Trustee from the REIT (including any amount in lieu of any fractional Trust Units)) to purchase, as specified in a Written Direction of the REIT (which direction shall be given by the REIT on or prior to such Trust Unit Delivery Date), Government Obligations which mature prior to the applicable Interest Payment Date and which the Debenture Trustee shall hold until maturity (the "**Trust Unit Proceeds Investment**") and the Debenture Trustee shall, on such date, deposit the balance (if any) of such sale proceeds in an account established by the REIT (and which shall be maintained by and subject to the control of the Debenture Trustee) (the "**Interest Account**") for such Debentures. The Debenture Trustee shall hold such Trust Unit Proceeds Investment (but not income earned thereon) under its exclusive control in accordance with the terms hereof. At least one Business Day prior to the Interest Payment Date, the Debenture Trustee shall deposit amounts from the proceeds of the Trust Unit Proceeds Investment in the Interest Account to bring the balance of the Interest Account up to the Trust Unit Interest Payment Election Amount. On the Interest Payment Date, the Debenture Trustee shall pay funds held in the Interest Account to the holders entitled to payment thereof on the Interest Payment Date (less the tax required to be deducted (if any)) and, provided that there is no Event of Default, shall remit amounts (if any) in respect of income earned on the Trust Unit Proceeds Investment or otherwise in excess of the Trust Unit Interest Payment Election Amount to the REIT.
- (i) Neither the making of a Trust Unit Interest Payment Election nor the consummation of sales of Trust Units on a Trust Unit Delivery Date shall: (i) result in the holders of the Debentures not being entitled to receive on the applicable Interest Payment Date cash in an aggregate amount equal to the Interest Obligation payable on such date; or (ii) entitle such holders to receive any Trust Units in satisfaction of such Interest Obligation.
- (j) No fractional Trust Units will be issued in satisfaction of interest but in lieu thereof the REIT will satisfy such fractional interest by a cash payment equal to the Current Market Price of such fractional interest (less the tax required to be deducted (if any)).
- (k) The REIT shall at all times fully assist the Debenture Trustee in the doing of all of the acts and things provided for in this Section 11.1 and all such further and other acts and things as may be necessary in connection therewith or ancillary thereto or as the Debenture Trustee may request.

## **ARTICLE 12 SUCCESSORS**

### **12.1 Restrictions on Amalgamation, Merger and Sale of Certain Assets, etc.**

Subject to the provisions of Article 13, the REIT shall not enter into any transaction or series of transactions whereby all or substantially all of its undertaking, property or assets would become the property of any other person (herein called a “**Successor**”) whether by way of reorganization, consolidation, amalgamation, arrangement, merger, transfer, sale, lease or otherwise, unless:

- (a) prior to or contemporaneously with the consummation of such transaction, the REIT and the Successor shall have executed such instruments and done such things as, in the opinion of Counsel, are necessary or advisable to establish that upon the consummation of such transaction:
  - (i) the Successor will have assumed all the covenants and obligations of the REIT under this Indenture in respect of the Debentures;
  - (ii) the Debentures will be valid and binding obligations of the Successor entitling the holders thereof, as against the Successor, to all the rights of Debentureholders under this Indenture; and
  - (iii) in the case of a Successor organized otherwise than under the laws of the Province of Ontario, such Successor shall attorn to the jurisdiction of the courts of the Province of Ontario;
- (b) such transaction, in the opinion of Counsel, shall be on such terms as to substantially preserve and not impair any of the rights and powers of the Debenture Trustee or of the Debentureholders hereunder;
- (c) no condition or event shall exist as to the REIT (at the time of such transaction) or the Successor (immediately after such transaction) and after giving full effect thereto or immediately after the Successor shall become liable to pay the principal monies, premium, if any, interest and other monies due or which may become due hereunder, which constitutes or would, with the giving of notice or the lapse of time or both, constitute an Event of Default hereunder.

### **12.2 Vesting of Powers in Successor**

Whenever the conditions of Section 12.1 shall have been duly observed and performed, upon the Debenture Trustee and the Successor duly executing and delivering a supplemental indenture in form and substance satisfactory to Counsel: (a) the Successor shall possess and from time to time may exercise each and every right and power of the REIT under this Indenture in the name of the REIT or otherwise and any act or proceeding by any provision of this Indenture required to be done or performed by any Trustees or officers of the REIT may be done and performed with like force and effect by the directors, trustees or officers of such Successor; and (b) the REIT shall be released and discharged from liability under this Indenture and the Debenture Trustee may execute any documents which it may be advised are necessary or advisable for effecting or evidencing such release and discharge.



## ARTICLE 13 COMPULSORY ACQUISITION

### 13.1 Definitions In this Article:

- (a) “**acting jointly or in concert**” shall have the meaning set forth in Part XX of the *Securities Act* (Ontario);
- (b) “**Affiliate**” shall have the same meaning as “affiliate” for purposes of Part XX of the *Securities Act* (Ontario);
- (c) “**Associate**” shall have the meaning set forth in the *Securities Act* (Ontario);
- (d) “**Dissenting Debentureholders**” means a Debentureholder who does not accept an Offer referred to in Section 13.2 and includes any assignee of the Debenture of a Debentureholder to whom such an Offer is made, whether or not such assignee is recognized under this Indenture;
- (e) “**Offer**” means an offer to acquire outstanding Debentures where, as of the date of the offer to acquire, the Debentures that are subject to the offer to acquire, together with the Offeror’s Debentures, constitute in the aggregate 20% or more of the outstanding principal amount of the Debentures;
- (f) “**offer to acquire**” includes an acceptance of an offer to sell;
- (g) “**Offeror**” means a person, or two or more persons acting jointly or in concert, who make an Offer to acquire Debentures;
- (h) “**Offeror’s Debentures**” means Debentures 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; and
- (i) “**Offeror’s Notice**” means the notice described in Section 13.3.

### 13.2 Offer for Debentures

If an Offer for all of the outstanding Debentures (other than Debentures held by or on behalf of the Offeror or an Affiliate or Associate of the Offeror or any person acting jointly or in concert with the Offeror) is made and:

- (a) within the time provided in the Offer for its acceptance or within 45 days after the date the Offer is made, whichever period is the shorter, the Offer is accepted by holders of Debentures representing at least 90% of the outstanding principal amount of the Debentures, other than the Offeror’s Debentures;
- (b) the Offeror is bound to take up and pay for, or has taken up and paid for the Debentures of the Debentureholders who accepted the Offer; and
- (c) the Offeror complies with Sections 13.3 and 13.5;

the Offeror is entitled to acquire, and the Dissenting Debentureholders are required to sell to the Offeror, the Debentures held by the Dissenting Debentureholder for the same consideration per Debenture payable or paid, as the case may be, under the Offer.

### **13.3 Offeror's Notice to Dissenting Debentureholders**

Where an Offeror is entitled to acquire Debentures held by Dissenting Debentureholders pursuant to Section 13.2 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 Debentureholder stating that:

- (a) Debentureholders holding at least 90% of the principal amount of all outstanding Debentures, other than Offeror's Debentures, have accepted the Offer;
- (b) the Offeror is bound to take up and pay for, or has taken up and paid for, the Debentures of the Debentureholders who accepted the Offer;
- (c) Dissenting Debentureholders must transfer their respective Debentures to the Offeror on the terms on which the Offeror acquired the Debentures of the Debentureholders who accepted the Offer within 21 days after the date of the sending of the Offeror's Notice; and
- (d) Dissenting Debentureholders must send their respective Debenture(s) to the Debenture Trustee within 21 days after the date of the sending of the Offeror's Notice.

### **13.4 Delivery of Debenture Certificates**

A Dissenting Debentureholder to whom an Offeror's Notice is sent pursuant to Section 13.3 shall, within 21 days after the sending of the Offeror's Notice, send his or her Debenture certificate(s) to the Debenture Trustee duly endorsed for transfer.

### **13.5 Payment of Consideration to Debenture Trustee**

Within 21 days after the Offeror sends an Offeror's Notice pursuant to Section 13.3, the Offeror shall pay or transfer to the Debenture Trustee, or to such other person as the Debenture Trustee may direct, the cash or other consideration that is payable to Dissenting Debentureholders pursuant to Section 13.2. The acquisition by the Offeror of all Debentures held by all Dissenting Debentureholders shall be effective as of the time of such payment or transfer.

### **13.6 Consideration to be held in Trust**

The Debenture Trustee, or the person directed by the Debenture Trustee, shall hold in trust for the Dissenting Debentureholders the cash or other consideration they or it receives under Section 13.5. The Debenture Trustee, or such persons, shall deposit cash in a separate account in a Canadian chartered bank, or other body corporate, any of whose deposits are insured by the Canada Deposit Insurance Corporation (which may, but need not be, an affiliate of the Debenture Trustee), and shall place other consideration in the custody of a Canadian chartered bank or such other body corporate.

### **13.7 Completion of Transfer of Debentures to Offeror**

Within 30 days after the date of the sending of an Offeror's Notice pursuant to Section 13.3, the Debenture Trustee, if the Offeror has complied with Section 13.5, shall:

- (a) do all acts and things and execute and cause to be executed all instruments as in the Debenture Trustee's opinion, relying on Counsel, may be necessary or desirable to cause the transfer of the Debentures of the Dissenting Debentureholders to the Offeror;
- (b) send to each Dissenting Debentureholder who has complied with Section 13.4 the consideration to which such Dissenting Debentureholder is entitled under this Article 13; and
- (c) send to each Dissenting Debentureholder who has not complied with Section 13.4 a notice stating that:
  - (i) his or her Debentures have been transferred to the Offeror;
  - (ii) the Debenture Trustee or some other person designated in such notice is holding in trust the consideration for such Debentures; and
  - (iii) the Debenture Trustee, or such other person, will send the consideration to such Dissenting Debentureholder as soon as possible after receiving such Dissenting Debentureholder's Debenture certificate(s) or such other documents as the Debenture Trustee or such other person may require in lieu thereof;

and the Debenture Trustee is hereby appointed the agent and attorney of the Dissenting Debentureholders for the purposes of giving effect to the foregoing provisions.

### **13.8 Communication of Offer to the REIT**

An Offeror cannot make an Offer for Debentures unless, concurrent with the communication of the Offer to any Debentureholder, a copy of the Offer is provided to the REIT and the Debenture Trustee.

## **ARTICLE 14 MEETINGS OF DEBENTUREHOLDERS**

### **14.1 Right to Convene Meeting**

The Debenture Trustee or the REIT may at any time and from time to time, and the Debenture Trustee shall, on receipt of a written request of the REIT or a written request signed by the holders of not less than 50% of the principal amount of the Debentures then outstanding and upon receiving funding and being indemnified to its reasonable satisfaction by the REIT or by the Debentureholders signing such request against the costs which may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Debentureholders. In the event of the Debenture Trustee failing, within 30 days after receipt of any such request and such funding of indemnity, to give notice convening a meeting, the REIT or such Debentureholders, as the case may be, may convene such meeting. Every such meeting shall be held in the City of

Toronto, Ontario or at such other place as may be determined by the REIT and approved by the Debenture Trustee.

## 14.2 Notice of Meetings

- (a) At least 21 days' notice of any meeting shall be given to the Debentureholders in the manner provided in Section 15.2 and a copy of such notice shall be sent to the Debenture Trustee, unless the meeting has been called by it, and to the REIT, unless the meeting has been called by it. Such notice shall state the time when and the place where the meeting is to be held and shall state briefly the general nature of the business to be transacted thereat and it shall not be necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article 14. The accidental omission to give notice of a meeting to any Debentureholder shall not invalidate any resolution passed at any such meeting. A holder may waive notice of a meeting either before or after the meeting.
- (b) If the business to be transacted at any meeting by Extraordinary Resolution or otherwise, or any action to be taken or power exercised by instrument in writing under Section 14.15, especially affects the rights of Debentureholders of one or more series in a manner or to an extent differing in any material way from that in or to which the rights of holders of Debentures of any other series are affected (determined as provided in Sections 14.2(c) and 14.2(d)), then:
  - (i) a reference to such fact, indicating each series of Debentures so especially affected (hereinafter referred to as the "especially affected series") shall be made in the notice of such meeting, and in any such case the meeting shall be and be deemed to be and is herein referred to as a **"Serial Meeting"**; and
  - (ii) the Debentureholders of an especially affected series shall not be bound by any action taken at a Serial Meeting or by instrument in writing under Section 14.15 unless in addition to compliance with the other provisions of this Article 14:
    - (A) at such Serial Meeting: (I) there are Debentureholders present in person or by proxy and representing at least 25% in principal amount of the Debentures then outstanding of such series, subject to the provisions of this Article 14 as to quorum at adjourned meetings; and (II) the resolution is passed by the affirmative vote of the holders of more than 50% (or in the case of an Extraordinary Resolution not less than 66⅔%) of the principal amount of the Debentures of such especially affected series then outstanding voted on the resolution; or
    - (B) in the case of action taken or power exercised by instrument in writing under Section 14.15, such instrument is signed in one or more counterparts by the holders of not less than 66⅔% in principal amount of the Debentures of such especially affected series then outstanding.

- (c) Subject to Section 14.2(d), the determination as to whether any business to be transacted at a meeting of Debentureholders, or any action to be taken or power to be exercised by instrument in writing under Section 14.15, especially affects the rights of the Debentureholders of one or more series in a manner or to an extent differing in any material way from that in or to which it affects the rights of Debentureholders of any other series (and is therefore an especially affected series) shall be determined by an opinion of Counsel, which shall be binding on all Debentureholders, the Debenture Trustee and the REIT for all purposes hereof.
- (d) A proposal:
  - (i) to extend the maturity of Debentures of any particular series or to reduce the principal amount thereof, the rate of interest or redemption premium thereon or to impair any conversion right thereof;
  - (ii) to modify or terminate any covenant or agreement which by its terms is effective only so long as Debentures of a particular series are outstanding; or
  - (iii) to reduce with respect to Debentureholders of any particular series any percentage stated in this Section 14.2 or any of Sections 14.4, 14.12 and 14.15;

shall be deemed to especially affect the rights of the Debentureholders of such series in a manner differing in a material way from that in which it affects the rights of Debentureholders of any other series, whether or not a similar extension, reduction, modification or termination is proposed with respect to Debentures of any or all other series.

### **14.3 Chair**

Some person, who need not be a Debentureholder, nominated in writing by the REIT (in case it convenes the meeting) or the Debenture Trustee (in any other case) shall be chair of the meeting and if no person is so nominated, or if the person so nominated is not present within 15 minutes from the time fixed for the holding of the meeting, a majority of the Debentureholders present in person or by proxy shall choose some individual present to be chair.

### **14.4 Quorum**

Subject to the provisions of Section 14.12, at any meeting of the Debentureholders a quorum shall consist of Debentureholders present in person or by proxy and representing at least 25% in principal amount of the outstanding Debentures and, if the meeting is a Serial Meeting, at least 25% of the Debentures then outstanding of each especially affected series. If a quorum of the Debentureholders shall not be present within 30 minutes from the time fixed for holding any meeting, the meeting, if summoned by the Debentureholders or pursuant to a request of the Debentureholders, shall be dissolved, but in any other case the meeting shall be adjourned to the same day in the next week (unless such day is not a Business Day in which case it shall be adjourned to the next following Business Day thereafter) at the same time and place and no notice shall be required to be given in respect of such adjourned meeting. At the adjourned meeting, the Debentureholders present in person or by proxy shall, subject to the provisions of Section 14.12,

constitute a quorum and may transact the business for which the meeting was originally convened notwithstanding that they may not represent 25% of the principal amount of the outstanding Debentures or of the Debentures then outstanding of each especially affected series. Any business may be brought before or dealt with at an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same. No business shall be transacted at any meeting unless the required quorum be present at the commencement of business.

#### **14.5 Power to Adjourn**

The chair of any meeting at which a quorum of the Debentureholders is present may, with the consent of the holders of a majority in principal amount of the Debentures represented thereat, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.

#### **14.6 Show of Hands**

Every question submitted to a meeting shall, subject to Section 14.7, be decided in the first place by a majority of the votes given on a show of hands except that votes on Extraordinary Resolutions shall be given in the manner hereinafter provided. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chair that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact. The chair of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Debentures, if any, held by him.

#### **14.7 Poll**

On every Extraordinary Resolution, and on any other question submitted to a meeting when demanded by the chair or by one or more Debentureholders or proxies for Debentureholders, a poll shall be taken in such manner and either at once or after an adjournment as the chair shall direct. Questions other than Extraordinary Resolutions shall, if a poll be taken, be decided by the votes of the holders of a majority in principal amount of the Debentures and of each especially affected series, if applicable, represented at the meeting and voted on the poll.

#### **14.8 Voting**

On a show of hands every person who is present and entitled to vote, whether as a Debentureholder or as proxy for one or more Debentureholders or both, shall have one vote. On a poll each Debentureholder present in person or represented by a proxy duly appointed by an instrument in writing shall be entitled to one vote in respect of each \$1,000 principal amount of Debentures of which he shall then be the holder. In the case of any Debenture denominated in a currency or currency unit other than Canadian dollars, the principal amount thereof for these purposes shall be computed in Canadian dollars on the basis of the conversion of the principal amount thereof at the applicable nominal noon rate of exchange for such other currency or currency unit as reported by the Bank of Canada in respect of the Business Day next preceding the meeting. Any fractional amounts resulting from such conversion shall be rounded, up or down, to the nearest \$100. A proxy need not be a Debentureholder. In the case of joint holders of a Debenture, any one of them present in person or by proxy at the meeting may vote in the absence of the other or others but in case more than one of them is present in person or by proxy, they shall vote together in respect of the Debentures of which they are joint holders.

## **14.9 Proxies**

A Debentureholder may be present and vote at any meeting of Debentureholders by an authorized representative. The REIT (in case it convenes the meeting) or the Debenture Trustee (in any other case) for the purpose of enabling the Debentureholders to be present and vote at any meeting without producing their Debentures, and of enabling them to be present and vote at any such meeting by proxy and of lodging instruments appointing such proxies at some place other than the place where the meeting is to be held, may from time to time make and vary such regulations as it shall think fit providing for and governing any or all of the following matters:

- (a) the setting of a record date for a meeting of Debentureholders for the purpose of determining Debentureholders entitled to receive notice of and note at such meeting;
- (b) the voting by proxy by Debentureholders and the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any person signing on behalf of a Debentureholder;
- (c) the deposit of instruments appointing proxies at such place as the Debenture Trustee, the REIT or the Debentureholder convening the meeting, as the case may be, may, in the notice convening the meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which the same must be deposited;
- (d) the deposit of instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed, faxed or sent by other electronic means before the meeting to the REIT or to the Debenture Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting; and
- (e) generally for the calling of meetings of Debentureholders and the conduct of business at such meeting.

Any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. The Debenture Trustee may dispense with any such deposit and permit Debentureholders to make proof of ownership in such other manner, if any, as the Debenture Trustee may approve. Save as such regulations may provide, the only persons who shall be recognized at any meeting as the holders of any Debentures, or as entitled to vote or be present at the meeting in respect thereof, shall be Debentureholders and persons whom Debentureholders have by instrument in writing duly appointed as their proxies.

## **14.10 Persons Entitled to Attend Meetings**

The REIT and the Debenture Trustee, by their respective officers, employees, trustees and directors, the Auditors of the REIT and the legal advisers of the REIT, the Debenture Trustee and any Debentureholder may attend any meeting of the Debentureholders, but shall have no vote as such.



#### **14.11 Powers Exercisable by Extraordinary Resolution**

- (a) In addition to the powers conferred upon them by any other provisions of this Indenture or by law, a meeting of the Debentureholders shall have the following powers exercisable from time to time by Extraordinary Resolution, subject in the case of the matters in paragraphs (a), (b), (c), (d), (e), (I), (m) and (n) to receipt of the prior approval of the TSX, if required by the rules thereof:
- (b) power to authorize the Debenture Trustee to grant extensions of time for payment of any principal, premium or interest on the Debentures, whether or not the principal, premium, or interest, the payment of which is extended, is at the time due or overdue;
- (c) power to sanction any modification, abrogation, alteration, compromise or arrangement of the rights of the Debentureholders or the Debenture Trustee (subject to the prior written consent of the Debenture Trustee) against the REIT, or against its property or assets or any part thereof, whether such rights arise under this Indenture or the Debentures or otherwise;
- (d) subject to obtaining all required regulatory approvals, power to assent to any modification of or change in or addition to or omission from the provisions contained in this Indenture or any Debenture which shall be agreed to by the REIT and to authorize the Debenture Trustee to concur in and execute any indenture supplemental hereto embodying any modification, change, addition or omission;
- (e) power to sanction any scheme for the reconstruction, reorganization or recapitalization of the REIT or for the consolidation, amalgamation or merger of the REIT with any other person or for the sale, leasing, transfer or other disposition of all or substantially all of the undertaking, property and assets of the REIT, provided that no such sanction shall be necessary in respect of any such transaction if the provisions of Section 12.1 shall have been complied with;
- (f) power to direct or authorize the Debenture Trustee to exercise any power, right, remedy or authority given to it by this Indenture in any manner specified in any such Extraordinary Resolution or to refrain from exercising any such power, right, remedy or authority;
- (g) power to waive, and direct the Debenture Trustee to waive, any default hereunder and/or cancel any declaration made by the Debenture Trustee pursuant to Section 9.1 either unconditionally or upon any condition specified in such Extraordinary Resolution;
- (h) power, subject to Section 9.5, to restrain any Debentureholder from taking or instituting any suit, action or proceeding for the purpose of enforcing payment of the principal, premium or interest on the Debentures, or for the execution of any trust or power hereunder, or for the appointment of a liquidator, receiver or trustee-in-bankruptcy, or to have the REIT wound up, and to require any Debentureholder to waive any default or defaults by the REIT hereunder or upon which any action or proceeding is founded;

- (i) power to direct any Debentureholder who, as such, has brought any action, suit or proceeding to stay or discontinue or otherwise deal with the same upon payment, if the taking of such suit, action or proceeding shall have been permitted by Section 9.5, of the costs, charges and expenses reasonably and properly incurred by such Debentureholder in connection therewith;
- (j) power to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any units or other securities of the REIT;
- (k) power to appoint a committee with power and authority (subject to such limitations, if any, as may be prescribed in the resolution) to exercise, and to direct the Debenture Trustee to exercise, on behalf of the Debentureholders, such of the powers of the Debentureholders as are exercisable by Extraordinary Resolution or other resolution as shall be included in the resolution appointing the committee. The resolution making such appointment may provide for payment of the expenses and disbursements of and compensation to such committee and the Debenture Trustee by the Debentureholders. Such committee shall consist of such number of persons as shall be prescribed in the resolution appointing it and the members need not be themselves Debentureholders. Every such committee may elect, from its members, its chair and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number and its procedure generally. Such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by minutes signed by the number of members thereof necessary to constitute a quorum. All acts of any such committee within the authority delegated to it shall be binding upon all Debentureholders. Neither the committee nor any member thereof nor the Debenture Trustee shall be liable for any loss arising from or in connection with any action taken or omitted to be taken by them in good faith;
- (l) power to remove the Debenture Trustee from office and to appoint a new debenture trustee or debenture trustees provided that no such removal shall be effective unless and until a new debenture trustee or debenture trustees shall have become bound by this Indenture;
- (m) power to sanction the exchange of the Debentures for or the conversion thereof into units, bonds, debentures or other securities or obligations of the REIT or of any other person formed or to be formed;
- (n) power to authorize the distribution *in specie* of any shares or securities received pursuant to a transaction authorized under the provisions of Section 14.11(a); and
- (o) power to amend, alter or repeal any Extraordinary Resolution previously passed or sanctioned by the Debentureholders or by any committee appointed pursuant to Section 11.1(k).

Notwithstanding the foregoing provisions of this Section 14.11, none of such provisions shall in any manner allow or permit any amendment, modification, abrogation or addition to the provisions of Article 5 which could reasonably be expected to detrimentally affect the rights, remedies or recourse of the priority of the Senior Creditors.

#### 14.12 Meaning of “Extraordinary Resolution”

- (a) The expression “**Extraordinary Resolution**” when used in this Indenture means, subject as hereinafter in this Article 14 provided, a resolution proposed to be passed as an Extraordinary Resolution at a meeting of Debentureholders (including an adjourned meeting) duly convened for the purpose and held in accordance with the provisions of this Article 14 at which the holders of not less than 25% of the principal amount of the Debentures then outstanding, and if the meeting is a Serial Meeting, at which holders of not less than 25% of the principal amount of the Debentures then outstanding of each especially affected series, are present in person or by proxy and passed by the favourable votes of the holders of not less than  $66\frac{2}{3}\%$  of the principal amount of the Debentures, and if the meeting is a Serial Meeting by the favourable vote of the holders of not less than  $66\frac{2}{3}\%$  of the principal amount of the Debentures of each especially affected series, in each case present or represented by proxy at the meeting and voted upon on a poll on such resolution, or rendered by instruments in writing signed by the holders of not less than  $66\frac{2}{3}\%$  of the principal amount of the Debentures outstanding, or  $66\frac{2}{3}\%$  of the principal amount of the Debentures of each especially affected series then outstanding, as the case may be.
- (b) If, at any such meeting, the holders of not less than 25% of the principal amount of the Debentures then outstanding and, if the meeting is a Serial Meeting, 25% of the principal amount of the Debentures then outstanding of each especially affected series, in each case 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 Debentureholders, shall be dissolved but in any other case it shall stand adjourned to such date, being not less than 14 nor more than 60 days later, and to such place and time as may be appointed by the chair. Not less than 10 days’ notice shall be given of the time and place of such adjourned meeting in the manner provided in Section 15.2. Such notice may be given prior to the convening of the original meeting, in anticipation of no quorum being present thereat, in which event it shall state that it is to have effect only if the original meeting is adjourned for lack of a quorum. Such notice shall state that at the adjourned meeting the Debentureholders present in person or by proxy shall form a quorum. At the adjourned meeting the Debentureholders 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 thereat by the affirmative vote of holders of not less than  $66\frac{2}{3}\%$  of the principal amount of the Debentures and, if the meeting is a Serial Meeting, by the affirmative vote of the holders of not less than  $66\frac{2}{3}\%$  of the principal amount of the Debentures of each especially affected series, in each case present or represented by proxy at the meeting and voted upon on a poll shall be an Extraordinary Resolution within the meaning of this Indenture, notwithstanding that the holders of not less than 25% in principal amount of the Debentures then outstanding, and if the meeting is a Serial Meeting, at which holders of not less than 25% of the principal amount of the Debentures then outstanding of each especially affected series, are not present in person or by proxy at such adjourned meeting.

- (c) Votes on an Extraordinary Resolution at a meeting of Debentureholders shall always be given on a poll and no demand for a poll on an Extraordinary Resolution shall be necessary.

#### **14.13 Powers Cumulative**

Any one or more of the powers in this Indenture stated to be exercisable by the Debentureholders by Extraordinary Resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time shall not be deemed to exhaust the rights of the Debentureholders to exercise the same or any other such power or powers thereafter from time to time.

#### **14.14 Minutes**

Minutes of all resolutions and proceedings at every meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the REIT, and any such minutes as aforesaid, if signed by the chair of the meeting at which such resolutions were passed or proceedings had, or by the chair of the next succeeding meeting of the Debentureholders, shall be prima facie evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings taken thereat to have been duly passed and taken.

#### **14.15 Instruments in Writing**

All actions which may be taken and all powers that may be exercised by the Debentureholders at a meeting held as hereinbefore in this Article 14 provided may also be taken and exercised by the holders of 66⅔% of the principal amount of all the outstanding Debentures and, if the meeting at which such actions might be taken would be a Serial Meeting, by the holders of 66⅔% of the principal amount of the Debentures then outstanding of each especially affected series, by an instrument in writing signed in one or more counterparts and the expression “**Extraordinary Resolution**” when used in this Indenture shall include an instrument so signed.

#### **14.16 Binding Effect of Resolutions**

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this Article 14 at a meeting of Debentureholders shall be binding upon all the Debentureholders, whether present at or absent from such meeting, and every instrument in writing signed by Debentureholders in accordance with Section 14.15 shall be binding upon all the Debentureholders, whether signatories thereto or not, and each and every Debentureholder and the Debenture Trustee (subject to the provisions for its indemnity herein contained) shall be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.

#### **14.17 Evidence of Rights of Debentureholders**

- (a) Any request, direction, notice, consent or other instrument which this Indenture may require or permit to be signed or executed by the Debentureholders may be in any number of concurrent instruments of similar tenor signed or executed by such Debentureholders.

- (b) The Debenture Trustee may, in its discretion, require proof of execution in cases where it deems proof desirable and may accept such proof as it shall consider proper.

#### **14.18 Concerning Serial Meetings**

If in the opinion of Counsel any business to be transacted at any meeting, or any action to be taken or power to be exercised by instrument in writing under Section 14.15, does not adversely affect the rights of the Debentureholders of one or more series, the provisions of this Article 14 shall apply as if the Debentures of such series were not outstanding and no notice of any such meeting need be given to the Debentureholders of such series. Without limiting the generality of the foregoing, a proposal to modify or terminate any covenant or agreement which is effective only so long as Debentures of a particular series are outstanding shall be deemed not to adversely affect the rights of the Debentureholders of any other series.

### **ARTICLE 15 NOTICES**

#### **15.1 Notice to REIT**

Any notice to the REIT under the provisions of this Indenture shall be valid and effective if delivered to the REIT at: 121 King Street West, Suite 200, Toronto, Ontario, M5H 3T9, Attention: Chief Financial Officer, and a copy delivered to McCarthy Tétrault LLP, 66 Wellington Street West, Suite 5300, Toronto, Ontario M5K 1E6, Attention: Matthew Cumming, or if given by certified or first class letter, postage prepaid, to such offices and so addressed and if mailed, shall be deemed to have been effectively given three Business Days following the mailing thereof, or sending the same by facsimile transmission to the same addressee at the REIT at 416-947-9366 or McCarthy Tétrault LLP, 66 Wellington Street West, Suite 5300, Toronto, Ontario M5K 1E6, Attention: Matthew Cumming at 416-868-0673, which if sent by facsimile transmission, shall be deemed to have been given and received at the time of receipt (if a Business Day, if not the next succeeding Business Day) unless actually received after 4:30 p.m. (Toronto time) at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day. The REIT may from time to time notify the Debenture Trustee in writing of a change of address which thereafter, until changed by like notice, shall be the address of the REIT for all purposes of this Indenture.

#### **15.2 Notice to Debentureholders**

All notices to be given hereunder with respect to the Debentures shall be deemed to be validly given to the holders thereof if sent by first class mail, postage prepaid, by letter or circular addressed to such holders at their post office addresses appearing in any of the registers hereinbefore mentioned and shall be deemed to have been effectively given three Business Days following the day of mailing. Accidental error or omission in giving notice or accidental failure to mail notice to any Debentureholder or the inability of the REIT or the Debenture Trustee, as the case may be, to give or mail any notice due to anything beyond the reasonable control of the REIT or the Debenture Trustee, as the case may be, shall not invalidate any action or proceeding founded thereon.

If any notice given in accordance with the foregoing paragraph would be unlikely to reach the Debentureholders to whom it is addressed in the ordinary course of post by reason of an interruption in mail service, whether at the place of dispatch or receipt or both, the REIT shall

give such notice by publication at least once in an English language daily newspaper of general circulation in Canada and in a French language daily newspaper of general circulation in the Province of Quebec.

Any notice given to Debentureholders by publication shall be deemed to have been given on the day on which publication shall have been effected at least once in each of the newspapers in which publication was required.

All notices with respect to any Debenture may be given to whichever one of the holders thereof (if more than one) is named first in the registers hereinbefore mentioned, and any notice so given shall be sufficient notice to all holders of any persons (if any) interested in such Debenture.

### **15.3 Notice to Debenture Trustee**

Any notice to the Debenture Trustee under the provisions of this Indenture shall be valid and effective if delivered to the Debenture Trustee at its principal offices in Toronto, Ontario, at 301 – 100 Adelaide Street West, Toronto, Ontario, M5H 4H1, Attention: Vice President, Trust Services, or if given by certified or first class letter, postage prepaid, to such office and so addressed and, if mailed, shall be deemed to have been effectively given three Business Days following the mailing thereof, or sending the same by facsimile transmission to the same addressee at (416) 361-0470, which if sent by facsimile transmission, shall be deemed to have been given and received at the time of receipt (if a Business Day, if not the next succeeding Business Day) unless actually received after 4:30 p.m. (Toronto time) at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day.

### **15.4 Mail Service Interruption**

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Debenture Trustee would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to Sections 15.1 or 15.3, such notice shall be valid and effective only if delivered at the appropriate address in accordance with Sections 15.1 or 15.3, as the case may be.

## **ARTICLE 16 CONCERNING THE DEBENTURE TRUSTEE**

### **16.1 No Conflict of Interest**

The Debenture Trustee represents to the REIT that at the date of execution and delivery by it of this Indenture there exists no material conflict of interest in the role of the Debenture Trustee, as a fiduciary hereunder but if, notwithstanding the provisions of this Section 16.1, such a material conflict of interest exists, or hereafter arises, the validity and enforceability of this Indenture, and the Debentures issued hereunder, shall not be affected in any manner whatsoever by reason only that such material conflict of interest exists or arises but the Debenture Trustee shall, within 30 days after ascertaining that it has a material conflict of interest, either eliminate such material conflict of interest or resign in the manner and with the effect specified in Section 16.2. The Debenture Trustee also serves as the transfer agent for the Trust Units.



## **16.2 Replacement of Debenture Trustee**

The Debenture Trustee may resign its trust and be discharged from all further duties and liabilities hereunder by giving to the REIT 60 days' notice in writing or such shorter notice as the REIT may accept as sufficient. The REIT shall have the power at any time on notice in writing to the Debenture Trustee to, and the Debentureholders, in accordance with Section 14.11(1), shall have the power at any time to, remove the existing Debenture Trustee and to appoint a new or successor Debenture Trustee. The validity and enforceability of this Indenture and of the Debentures issued hereunder shall not be affected in any manner whatsoever by reason only that such a material conflict of interest exists. In the event of the Debenture Trustee resigning or being removed or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the REIT shall forthwith appoint a new debenture trustee unless a new Debenture Trustee has already been appointed by the Debentureholders. Failing such appointment by the REIT, the retiring Debenture Trustee or any Debentureholder may apply to a Judge of the Ontario Superior Court, on such notice as such Judge may direct at the REIT's expense, for the appointment of a new Debenture Trustee but any new debenture trustee so appointed by the REIT or by such court shall be subject to removal as aforesaid by the Debentureholders and the appointment of such new debenture trustee shall be effective only upon such new debenture trustee becoming bound by this Indenture. Any new debenture trustee appointed under any provision of this Section 16.2 shall be a corporation authorized to carry on the business of a trust company in all of the provinces and territories of Canada. On any new appointment the new debenture trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Debenture Trustee.

Any company into which the Debenture Trustee may be merged or, with or to which it may be consolidated, amalgamated or sold, or any company resulting from any merger, consolidation, sale or amalgamation to which the Debenture Trustee shall be a party, or any person to which the Debenture Trustee has transferred substantially all of its corporate trust business, shall be the successor trustee under this Indenture without the execution of any instrument or any further act. Nevertheless, upon the written request of the successor debenture trustee or of the REIT, the Debenture Trustee ceasing to act shall execute and deliver an instrument assigning and transferring to such successor debenture trustee, upon the trusts herein expressed, all the rights, powers and trusts of the Debenture Trustee so ceasing to act, and shall duly assign, transfer and deliver all property and money held by such Debenture Trustee to the successor debenture trustee so appointed in its place. Should any deed, conveyance or instrument in writing from the REIT be required by any new debenture trustee for more fully and certainly vesting in and confirming to it such estates, properties, rights, powers and trusts, then any and all such deeds, conveyances and instruments in writing shall on request of said new debenture trustee, be made, executed, acknowledged and delivered by the REIT.

## **16.3 Duties of Debenture Trustee**

In the exercise of the rights, duties and obligations prescribed or conferred by the terms of this Indenture, the Debenture Trustee shall act honestly and in good faith with a view to the best interests of the Debentureholders and shall exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

## **16.4 Reliance Upon Declarations, Opinions, etc.**

In the exercise of its rights, duties and obligations hereunder the Debenture Trustee may, if acting in good faith, act and rely, as to the truth of the statements and accuracy of the opinions expressed



therein, upon statutory declarations, opinions, reports or certificates furnished pursuant to any covenant, condition or requirement of this Indenture or required by the Debenture Trustee to be furnished to it in the exercise of its rights and duties hereunder, if the Debenture Trustee examines such statutory declarations, opinions, reports or certificates and determines that they comply with Section 16.5, the Debenture Trustee may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. Without restricting the foregoing, the Debenture Trustee may act and rely on an opinion of Counsel satisfactory to the Debenture Trustee notwithstanding that it is delivered by a solicitor or firm which acts as solicitors for the REIT.

The Debenture Trustee shall be entitled to rely, and act, upon any direction, request, order, instruction, notice or other communication provided to it hereunder which is sent to it by facsimile transmission or electronic delivery.

#### **16.5 Evidence and Authority to Debenture Trustee, Opinions, etc.**

The REIT shall furnish to the Debenture Trustee evidence of compliance with the conditions precedent provided for in this Indenture relating to any action or step required or permitted to be taken by the REIT or the Debenture Trustee under this Indenture or as a result of any obligation imposed under this Indenture, including without limitation, the certification and delivery of Debentures hereunder, the satisfaction and discharge of this Indenture and the taking of any other action to be taken by the Debenture Trustee at the request of or on the application of the REIT, forthwith if and when (a) such evidence is required by any other Section of this Indenture to be furnished to the Debenture Trustee in accordance with the terms of this Section 16.5, or (b) the Debenture Trustee, in the exercise of its rights and duties under this Indenture, gives the REIT written notice requiring it to furnish such evidence in relation to any particular action or obligation specified in such notice. Such evidence shall consist of:

- (a) a certificate made by any one Trustee or officer of the REIT, stating that any such condition precedent has been complied with in accordance with the terms of this Indenture;
- (b) in the case of a condition precedent compliance with which is, by the terms of this Indenture, made subject to review or examination by a solicitor, an opinion of Counsel that such condition precedent has been complied with in accordance with the terms of this Indenture; and
- (c) in the case of any such condition precedent compliance with which is subject to review or examination by auditors or accountants, an opinion or report of the Auditors of the REIT, whom the Debenture Trustee for such purposes hereby approves, that such condition precedent has been complied with in accordance with the terms of this Indenture.

Whenever such evidence relates to a matter other than the certification and delivery of Debentures and the satisfaction and discharge of this Indenture, and except as otherwise specifically provided herein, such evidence may consist of a report or opinion of any solicitor, auditor, accountant, engineer or appraiser or any other person whose qualifications give authority to a statement made by him, provided that if such report or opinion is furnished by a Trustee, officer or employee of the REIT it shall be in the form of a statutory declaration. Such evidence shall be, so far as appropriate, in accordance with the immediately preceding paragraph of this Section 16.5.

Each statutory declaration, certificate, opinion or report with respect to compliance with a condition precedent provided for in the Indenture shall include (a) a statement by the person giving the evidence that he has read and is familiar with those provisions of this Indenture relating to the condition precedent in question, (b) a brief statement of the nature and scope of the examination or investigation upon which the statements or opinions contained in such evidence are based, (c) a statement that, in the belief of the person giving such evidence, he has made such examination or investigation as is necessary to enable him to make the statements or give the opinions contained or expressed therein, and (d) a statement whether in the opinion of such person the conditions precedent in question have been complied with or satisfied.

The REIT shall furnish to the Debenture Trustee at any time if the Debenture Trustee reasonably so requires, its certificate that the REIT has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which would, with the giving of notice or the lapse of time, or both, or otherwise, constitute an Event of Default, or if such is not the case, specifying the covenant, condition or other requirement which has not been complied with and giving particulars of such non-compliance. The REIT shall, whenever the Debenture Trustee so requires, furnish the Debenture Trustee with evidence by way of statutory declaration, opinion, report or certificate as specified by the Debenture Trustee as to any action or step required or permitted to be taken by the REIT or as a result of any obligation imposed by this Indenture.

#### **16.6 Officer's Certificates Evidence**

Except as otherwise specifically provided or prescribed by this Indenture, whenever in the administration of the provisions of this Indenture the Debenture Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, the Debenture Trustee, if acting in good faith, may rely upon an Officer's Certificate.

#### **16.7 Experts, Advisers and Agents**

The Debenture Trustee may:

- (a) employ or retain and act and rely on the opinion or advice of or information obtained from any solicitor, auditor, valuer, engineer, surveyor, appraiser or other expert, whether obtained by the Debenture Trustee or by the REIT, or otherwise, and shall not be liable for acting and relying, or refusing to act, in good faith on any such opinion or advice and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid; and
- (b) (i) employ such counsel agents and other assistants as it may reasonably require for the proper determination and discharge of its duties hereunder, (ii) may pay reasonable remuneration for all services performed for it (and shall be entitled to receive reasonable remuneration for all services performed by it) in the discharge of the trusts hereof and compensation for all disbursements, costs and expenses made or incurred by it in the proper determination and discharge of its duties hereunder and in the management of the trusts hereof, (iii) any solicitors employed or consulted by the Debenture Trustee may, but need not be, solicitors for the REIT, and (iv) the Debenture Trustee shall not be responsible for any negligence or misconduct on the part of any such person provided it has exercised due care in the selection of such person. The REIT shall pay the reasonable fees and expenses of such counsel, agents and other assistants.

## **16.8 Debenture Trustee May Deal in Debentures**

Subject to Sections 16.2 and 16.3, the Debenture Trustee may, in its personal or other capacity, buy, sell, lend upon and deal in the Debentures and generally contract and enter into financial transactions with the REIT or otherwise, without being liable to account for any profits made thereby.

## **16.9 Investment of Monies Held by Debenture Trustee**

Upon receipt of a Written Direction of the REIT, the Debenture Trustee shall invest the funds in Authorized Investments in its name in accordance with such Written Direction of the REIT. Any Written Direction of the REIT to the Debenture Trustee shall be provided to the Debenture Trustee no later than 10:00 a.m. (Toronto time) on the day on which the investment is to be made. Any such Written Direction of the REIT received by the Debenture Trustee after 10:00 a.m. (Toronto time) or received on a non-Business Day, shall be deemed to have been given prior to 10:00 a.m. (Toronto time) on the next Business Day. Any Written Direction of the REIT for the release of the funds must be received prior to 10:00 a.m. (Toronto time) on the day on which the release of funds is to be made. Any such direction for the release of funds received after 10:00 a.m. (Toronto time) or on a non-Business Day, will be handled on a commercially reasonable efforts basis and may result in the funds being released on the next Business Day. For the purpose hereof, “**Authorized Investments**” means short term interest bearing or discount debt obligations issued or guaranteed by the Government of Canada or a province of Canada or a Canadian chartered bank (which may include an Affiliate or related party of the Debenture Trustee) provided that such obligation is rated at least “R1 (middle)” by DBRS Limited or an equivalent rating service.

In the event that the Debenture Trustee does not receive a Written Direction of the REIT or only a partial Written Direction of the REIT, the Debenture Trustee may hold cash balances and may, but need not, invest same in its deposit department or the deposit department of one of its Affiliates; but the Debenture Trustee and its Affiliates shall not be liable to account for any profit to any parties to this Indenture or to any other person or entity other than at a rate, if any, established from time to time by the Debenture Trustee or one of its Affiliates. For the purpose of this Section 16.9, “Affiliate” means an affiliate within the meaning of National Instrument 45-106 – *Prospectus and Registration Exemptions* as if “issuer” noted therein was replaced with “person” as defined herein; and in respect of the Debenture Trustee, includes TSX Trust Company and its Affiliates.

## **16.10 Debenture Trustee Not Ordinarily Bound**

Except as provided in Section 9.2 and as otherwise specifically provided herein, the Debenture Trustee shall not, subject to Section 16.3, be bound to give notice to any person of the execution hereof, nor to do, observe or perform or see to the observance or performance by the REIT of any of the obligations herein imposed upon the REIT or of the covenants on the part of the REIT herein contained, nor in any way to supervise or interfere with the conduct of the REIT’s business, unless the Debenture Trustee shall have been required to do so in writing by the holders of not less than 50% of the aggregate principal amount of the Debentures then outstanding or by any Extraordinary Resolution of the Debentureholders passed in accordance with the provisions contained in Article 14, and then only after it shall have been funded and indemnified to its satisfaction against all actions, proceedings, claims and demands to which it may render itself liable and all costs, charges, damages and expenses which it may incur by so doing.

#### **16.11 Debenture Trustee Not Required to Give Security**

The Debenture Trustee shall not be required to give any bond or security in respect of the execution of the trusts and powers of this Indenture or otherwise in respect of the premises.

#### **16.12 Debenture Trustee Not Bound to Act**

Except as in this Indenture otherwise specifically provided, the Debenture Trustee shall not be bound to act in accordance with any direction or request of the REIT until a duly authenticated copy of the instrument or resolution containing such direction or request shall have been delivered to the Debenture Trustee, and the Debenture Trustee shall be empowered to act and rely upon any such copy purporting to be authenticated and believed by the Debenture Trustee to be genuine.

#### **16.13 Debenture Trustee Not Appointed Receiver**

The Debenture Trustee and any person related to the Debenture Trustee will not be appointed a receiver or receiver and manager or liquidator of all or any part of the assets or undertaking of the REIT.

#### **16.14 Conditions Precedent to Debenture Trustee's Obligations to Act Hereunder**

The obligation of the Debenture Trustee to commence or continue any act, action or proceeding for the purpose of enforcing the rights of the Debenture Trustee and of the Debentureholders hereunder shall be conditional upon the Debentureholders furnishing when required by notice in writing by the Debenture Trustee, sufficient funds to commence or continue such act, action or proceeding and indemnity reasonably satisfactory to the Debenture Trustee to protect and hold harmless the Debenture Trustee against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof.

None of the provisions contained in this Indenture shall require the Debenture Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified as aforesaid. The Debenture Trustee may, before commencing or at any time during the continuance of any such act, action or proceeding require the Debentureholders at whose instance it is acting to deposit with the Debenture Trustee the Debentures held by them for which Debentures the Debenture Trustee shall issue receipts.

No duty shall rest with the Debenture Trustee to determine compliance of the transferor or transferee with Applicable Securities Legislation. The Debenture Trustee shall be entitled to assume that all transfers are legal and proper.

In case at any time the name of the Debenture Trustee is changed and at such time any of the Debenture certificates have been certified but not delivered, the Debenture Trustee may adopt the certification under its prior name and deliver Debenture certificates so certified; and in case at that time any of the Debenture certificates have not been certified, the Debenture Trustee may certify such Debenture certificates either in its prior name or in its changed name; and in all such cases such Debenture certificates will have the full force provided in the Debenture certificates and in this Indenture.

The Debenture Trustee shall not be bound to give any notice or to do or take any act, action or proceeding in virtue of the powers conferred on it hereby unless and until it shall be required to do so under the terms hereof; nor, subject to any Event of Default which may be known by the Debenture Trustee, shall the Debenture Trustee be required to take notice of any Event of Default hereunder, unless and until notified in writing of such Event of Default, which notice shall specify the default or Event of Default desired to be brought to the attention of a Responsible Officer of the Debenture Trustee, and in the absence of such notice, the Debenture Trustee may for all purposes of this Indenture conclusively assume that the REIT is not in default hereunder and that no default has been occurred with respect to the payment of principal of, premium, if any, or interest on Debentures or in the observance or performance of any of the covenants, agreements or conditions contained herein. Any such notice shall in no way limit any discretion herein given to the Debenture Trustee to determine whether or not the Debenture Trustee shall take action with respect to any Event of Default.

The REIT shall provide to the Debenture Trustee an incumbency certificate setting out the names and sample signatures of persons authorized to give instructions to the Debenture Trustee hereunder. The Debenture Trustee shall be entitled to act and rely on such certificate until a revised certificate is provided to it hereunder. The Debenture Trustee shall be entitled to refuse to act upon any instructions given by a party which are signed by any person other than a person described in the incumbency certificate provided to it pursuant to this Section 16.14.

The Debenture Trustee may act and rely, and shall be protected in acting and relying absolutely, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, letter, facsimile transmission, directions or other paper document believed in good faith by it to be genuine and to have been signed, sent or presented by or on behalf of the proper party or parties. The Debenture Trustee shall be protected in acting and relying upon any written notice, request, waiver, consent, certificate, receipt, statutory declaration, affidavit or other paper or document furnished to it, not only as to its due execution and the validity and the effectiveness of its provisions but also as to the truth and acceptability of any information therein contained which it in good faith believes to be genuine and what it purports to be.

The Debenture Trustee shall not be liable for any consequential, punitive or special damages.

The Debenture Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Debenture Trustee was grossly negligent in ascertaining the pertinent facts.

The Debenture Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of the Debentures given to it in accordance with the terms of this Indenture, relating to the time, method and place of conducting any proceeding for any remedy available to the Debenture Trustee, or exercising any trust or power conferred upon the Debenture Trustee, under this Indenture with respect to the Debentures.

The Debenture Trustee shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Debenture Trustee (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of god or war).

The Debenture Trustee shall not be liable for or by reason of any statements of fact or recitals in this Indenture or the Debenture certificates (except the representation contained in Section 16.1 and 16.15 or in the certificate of the Debenture Trustee on the Debenture certificates) or be

required to verify the same, but all such statements or recitals are and shall be deemed to be made by the REIT.

Nothing herein contained shall impose any obligation on the Debenture Trustee to see to or to require evidence of the registration or filing (or renewal thereof) of this Indenture or any instrument ancillary or supplemental hereto.

The Debenture Trustee shall not incur any liability or responsibility whatever or be in any way responsible for the consequence of any breach on the part of the REIT of any of the covenants herein contained or of any acts of any directors, officers, employees, trustees or servants of the REIT.

#### **16.15 Authority to Carry on Business**

The Debenture Trustee represents to the REIT that at the date of execution and delivery by it of this Indenture it is authorized to carry on the business of a trust company in each of the Provinces of Canada but if, notwithstanding the provisions of this Section 16.15, it ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the Debentures issued hereunder shall not be affected in any manner whatsoever by reason only of such event but the Debenture Trustee shall, within 60 days after ceasing to be authorized to carry on the business of a trust company in any of the Provinces of Canada, either become so authorized or resign in the manner and with the effect specified in Section 16.2.

#### **16.16 Compensation and Indemnity**

- (a) The REIT shall pay to the Debenture Trustee from time to time reasonable remuneration for its services hereunder as agreed separately by the REIT and the Debenture Trustee, and shall pay to or reimburse the Debenture Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Debenture Trustee in the administration or execution of its duties under this Indenture (including the reasonable and documented compensation and disbursements of its Counsel and all other advisers and assistants not regularly in its employ), until the trusts hereof be finally wound up, including both before any default hereunder and thereafter until all duties of the Debenture Trustee under this Indenture shall be finally and fully performed, whether or not the trusts of this Indenture shall be in the course of administration by or under the direction of a court of competent jurisdiction. The Debenture Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust.
- (b) The REIT hereby indemnifies and saves harmless the Debenture Trustee and its directors, officers, employees, agents and its representatives, successors and assigns from and against any and all loss, damages, charges, expenses, claims, demands, actions or liability whatsoever which may be brought against the Debenture Trustee or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations hereunder save only in the event of the gross negligence, or the wilful misconduct or bad faith of the Debenture Trustee. This indemnity will survive the termination or discharge of this Indenture and the resignation or removal of the Debenture Trustee. The Debenture Trustee shall notify the REIT promptly of any claim for which it may seek indemnity. The REIT shall defend the claim and the Debenture Trustee shall

co-operate in the defence. The Debenture Trustee may have separate counsel and the REIT shall pay the reasonable fees and expenses of such Counsel. The REIT need not pay for any settlement made without its consent, which consent must not be unreasonably withheld. This indemnity shall survive the resignation or removal of the Debenture Trustee or the discharge of this Indenture.

- (c) The REIT need not reimburse any expense or indemnify against any loss or liability incurred by the Debenture Trustee through gross negligence, wilful misconduct or bad faith of the Debenture Trustee's duties hereunder.

#### **16.17 Acceptance of Trust**

The Debenture Trustee hereby accepts the trusts in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth and to hold all rights, privileges and benefits conferred hereby and by law in trust for the various persons who shall from time to time be Debentureholders, subject to all the terms and conditions herein set forth.

#### **16.18 Third Party Determination**

The REIT hereby represents to the Debenture Trustee that any account to be opened by, or interest to held by, the Debenture Trustee in connection with this Indenture, for or to the credit of the REIT, is not intended to be used by or on behalf of any third party other than the beneficiaries as expressly provided in this Indenture.

#### **16.19 Withholding**

For greater certainty, the Debenture Trustee shall, as directed by the REIT, withhold, from any payment made to a holder of a Debenture (including upon a Conversion) pursuant to the terms of this Indenture, the amount of any applicable withholding Taxes (including any interest or additions to Tax) required to be withheld in respect of such payment, and the Debenture Trustee shall remit such withheld amounts to the appropriate governmental authority, as and when required. The REIT and the Debenture Trustee agree to co-operate in administering this provision and to provide each other with any relevant information they have with respect to the holders of the Debentures. If the REIT satisfies any of its obligations to a holder (including upon a Conversion) hereunder by issuing Freely Tradable Units and the holder is subject to withholding Taxes, and the amount of the cash payment due to the holder, if any, is insufficient to satisfy such withholding Taxes, the Debenture Trustee, on the Written Direction of the REIT but for the account of the holder, shall deliver for sale, through the investment banks, brokers or dealers selected by the REIT, out of the Freely Tradable Units issued by the REIT for this purpose, such number of Freely Tradable Units that together with the cash payment, if any, is sufficient to yield net proceeds (after payment of all costs) to cover the amount of Taxes required to be withheld, and shall remit same on behalf of the REIT to the proper tax authorities within the period of time prescribed for this purpose under applicable laws.

#### **16.20 Compliance with Anti-Money Laundering Legislation**

The Debenture Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Debenture Trustee, in its sole judgment and acting reasonably, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Debenture Trustee, in its sole judgment and acting reasonably, determine at



any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days' written notice to the REIT or any shorter period of time as agreed to by the REIT, provided that:

- (a) the Debenture Trustee's written notice shall describe the circumstances of such non-compliance; and
- (b) if such circumstances are rectified to the Debenture Trustee's satisfaction within such 10-day period, then such resignation shall not be effective.

## **16.21 Privacy Laws**

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, "Privacy Laws") applies to certain obligations and activities under this Indenture. Notwithstanding any other provision of this Indenture, neither party shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The REIT shall, prior to transferring or causing to be transferred personal information to the Debenture Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Debenture Trustee shall use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws. Specifically, the Debenture Trustee agrees: (a) to have a designated chief privacy officer; (b) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry; (c) to use personal information solely for the purposes of providing its services under or ancillary to this Indenture and to comply with applicable laws and not to use it for any other purpose except with the consent of or direction from the REIT or the individual involved or as permitted by Privacy Laws; (d) not to sell or otherwise improperly disclose personal information to any third party; and (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

## **16.22 Force Majeure**

Neither party shall be liable to the other, or held in breach of this Indenture, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, general mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.

# **ARTICLE 17 SUPPLEMENTAL INDENTURES**

## **17.1 Supplemental Indentures**

From time to time the Debenture Trustee and, when authorized by a resolution of the Trustees, the REIT, may, and they shall when required by this Indenture, execute, acknowledge and deliver

by their proper officers deeds or indentures supplemental hereto which thereafter shall form part hereof, for any one or more of the following purposes:

- (a) providing for the issuance of Additional Debentures under this Indenture;
- (b) adding to the covenants of the REIT herein contained for the protection of the Debentureholders, or of the Debentures of any series, or providing for events of default, in addition to those herein specified;
- (c) making such provisions not inconsistent with this Indenture as may be necessary or desirable with respect to matters or questions arising hereunder, including the making of any modifications in the form of the Debentures which do not affect the substance thereof and which in the opinion of the Debenture Trustee relying on an opinion of Counsel will not be prejudicial to the interests of the Debentureholders;
- (d) evidencing the succession, or successive successions, of others to the REIT and the covenants of and obligations assumed by any such successor in accordance with the provisions of this Indenture;
- (e) giving effect to any Extraordinary Resolution passed as provided in Article 14; and
- (f) for any other purpose not inconsistent with the terms of this Indenture.

Unless the supplemental indenture requires the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, by Extraordinary Resolution, the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, shall not be required in connection with the execution, acknowledgement or delivery of a supplemental indenture. The REIT and the Debenture Trustee may amend any of the provisions of this Indenture related to matters of United States law or the issuance of Debentures into the United States in order to ensure that such issuances can be made in accordance with applicable law in the United States without the consent or approval of the Debentureholders. Further, the REIT and the Debenture Trustee may without the consent or concurrence of the Debentureholders or the holders of a particular series of Debentures, as the case may be, by supplemental indenture or otherwise, make any changes or corrections in this Indenture which it shall have been advised by Counsel are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provisions or clerical omissions or mistakes or manifest errors contained herein or in any indenture supplemental hereto or any Written Direction of the REIT providing for the issue of Debentures, provided that in the opinion of the Debenture Trustee (relying upon an opinion of Counsel) the rights of the Debentureholders are in no way prejudiced thereby.

## **17.2 Regulatory Approvals**

Notwithstanding anything to the contrary in this Indenture, so long as the Debentures are listed and posted for trading on the TSX, no indentures supplemental hereto or amendment to the terms of this Indenture may be made without the consent of the TSX where the rules of the TSX require such consent.

**ARTICLE 18**  
**EXECUTION AND FORMAL DATE**

**18.1 Execution**

This Indenture and any supplemental indenture provided for hereunder may be simultaneously executed in several counterparts, each of which when so executed and delivered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

**18.2 Formal Date**

For the purpose of convenience this Indenture may be referred to as bearing the formal date of January 26, 2018 irrespective of the actual date of execution hereof.

IN WITNESS whereof the parties hereto have executed these presents under the hands of their proper officers in that behalf.

**SLATE OFFICE REIT**

Per: (signed) "Robert Armstrong"  
Name: Robert Armstrong  
Title: Chief Financial Officer

**TSX TRUST COMPANY**

Per: (signed) "Don Crawford"  
Name: Don Crawford  
Title: Sr. Trust Officer

Per: (signed) "Michael Rosenberg"  
Name: Michael Rosenberg  
Title: Senior Trust Officer

[Signature Page to the Indenture]

[Insert U.S. Legend, as applicable.]

## SCHEDULE "A"

### Form of Initial Debenture

This Debenture is a Global Debenture within the meaning of the Indenture herein referred to and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.

Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. ("CDS") to Slate Office REIT or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & CO., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & CO. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & CO., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate.

### SLATE OFFICE REIT

(A trust governed by the laws of Ontario)

### 5.25% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES

Certificate No. \_\_\_\_

CUSIP: 831021AA8  
ISIN: CA831021AA86

**SLATE OFFICE REIT** (the "**REIT**") for value received hereby acknowledges itself indebted and, subject to the provisions of the trust indenture dated January 26, 2018 (the "**Indenture**") between the REIT and TSX Trust Company (the "**Debenture Trustee**"), promises to pay to \_\_\_\_\_, the registered holder hereof on the Maturity Date, or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture the principal sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) in lawful money of Canada on presentation and surrender of this Initial Debenture at the principal offices of the Debenture Trustee in Toronto, Ontario, in accordance with the terms of the Indenture and, subject as hereinafter provided, to pay interest on the principal amount hereof from and including the date hereof, or from and including the last Interest Payment Date to which interest shall have been paid or made available for payment hereon, whichever is later, to but excluding the next Interest Payment Date at the rate of 5.25% per annum, in like money in arrears in semi-annual instalments (less any amounts in respect of taxes required by law to be deducted or withheld) on February 28 and August 31 in each year commencing August 31, 2018 and, should the REIT at any time make default in the payment of any principal or interest, to pay interest on the amount in default at the same rate, compounded semi-annually, in like money and on the same dates. The August 31, 2018 interest payment will represent accrued interest for the period from January 26, 2018 to August 31, 2018.

Interest hereon shall be payable by wire, cheque, electronic transfer of funds or such other means as may be agreed to by the Debenture Trustee, to the registered holder hereof and, subject to the provisions of the Indenture, if payment is made by cheque, the mailing of such cheque shall, or if payment is made by wire or electronic transfer of funds, the making of such transfer of funds shall, to the extent of the sum represented thereby (plus the amount of any tax deducted or withheld and remitted to the proper authority), satisfy and discharge all liability for interest on this Initial Debenture.

This Initial Debenture is one of the Debentures of the REIT issued or issuable in one or more series under the provisions of the Indenture. The authorized principal amount of the Initial Debentures is limited to an aggregate principal amount of \$25,000,000, inclusive of the Over-Allotment Option, in lawful money of Canada. Reference is hereby expressly made to the Indenture for a description of the terms and conditions upon which the Initial Debentures are to be issued and held and the rights and remedies of the holders of the Initial Debentures and of the REIT and of the Debenture Trustee, all to the same effect as if the provisions of the Indenture were herein set forth to all of which provisions the holder of this Initial Debenture by acceptance hereof assents.

The Initial Debentures are issuable only in denominations of \$1,000 and integral multiples thereof. Upon compliance with the provisions of the Indenture, this Initial Debenture may be exchanged for an equal aggregate principal amount of Initial Debentures in any other authorized denomination or denominations.

The whole, or if this Initial Debenture is in a denomination in excess of \$1,000 any part of which is \$1,000 or an integral multiple thereof, of the principal of this Initial Debenture is convertible, at the option of the holder hereof, upon surrender of this Initial Debenture at the principal offices of the Debenture Trustee in the City of Toronto, Ontario, at any time prior to 5:00 p.m. (Toronto time) on the earlier of the Business Day immediately preceding the Maturity Date and the Business Day immediately preceding the date specified by the REIT for redemption of this Initial Debenture, into Freely Tradeable Units of the REIT (without adjustment to the Conversion Price for distributions on Trust Units issuable on conversion or for interest accrued on the Initial Debentures surrendered for conversion; however, holders converting their Initial Debentures shall be entitled to receive, in addition to the applicable number of Freely Tradeable Units, accrued and unpaid interest in respect thereof as provided in the Indenture) at a conversion price of \$10.53 (the “**Conversion Price**”) per Unit, being a rate of 94.9668 Units for each \$1,000 principal amount of Initial Debentures, all subject to the terms and conditions and in the manner set forth in the Indenture. The Indenture makes provision for the adjustment of the Conversion Price in the events therein specified. No fractional Trust Units will be issued on any conversion but in lieu thereof, the REIT will satisfy such fractional interest by a cash payment equal to the Current Market Price of such fractional interest (less any tax required to be deducted or withheld therefrom and remitted to the proper authority) or determined in accordance with the Indenture.

The Initial Debentures may be redeemed at the option of the REIT on the terms and conditions set out in the Indenture at the redemption price therein set out. This Initial Debenture is not redeemable prior to February 28, 2021, except upon the satisfaction of certain conditions after a Change of Control has occurred. On and from February 28, 2021, and prior to February 28, 2022, this Initial Debenture will be redeemable, in whole at any time, or in part from time to time, at the option of the REIT on notice as provided for in the Indenture, at a redemption price equal to the principal amount thereof plus accrued and unpaid interest on not more than 60 days’ and not less than 30 days’ prior written notice, provided that the Current Market Price is not less than 125% of the Conversion Price and the REIT will provide to the Debenture Trustee an Officer’s Certificate confirming such Current Market Price. On and from February 28, 2022, and prior to the Maturity Date, this Initial Debenture will be redeemable, in whole at any time, or in part from time to time, at the option of the REIT on notice as provided for in the Indenture, at a

redemption price equal to the principal amount thereof plus accrued and unpaid interest in not more than 60 days' and not less than 30 days' prior written notice.

Upon the occurrence of a Change of Control, the REIT will be required to make an offer in writing to purchase, in whole or in part, the Debentures then outstanding (the **"Offer"**), on a date (the **"Offer Date"**) which is not later than 30 days following the date upon which the REIT provides notice of the Change of Control to the Debenture Trustee as set out below, in accordance with the requirement of applicable Canadian securities laws, in lawful money of Canada at a price equal to 101% of the principal amount thereof plus accrued and unpaid interest up to, but excluding, the Offer Date.

If an Offer for all of the outstanding Initial Debentures is made and, subject to the terms and conditions set out in the Indenture, the Offer is accepted by holders of Initial Debentures representing at least 90% of the outstanding principal amount of the Initial Debentures (other than Debentures held by or on behalf of the Offeror or an Affiliate or Associate of the Offeror), and the Offeror is bound to take up and pay for, or has taken up and paid for the Initial Debentures of the Debentureholders who accepted the Offer, the Offeror will be entitled to acquire, for the same consideration per Initial Debenture payable under the Offer, the Initial Debentures held by Debentureholders who did not accept the Offer.

The REIT may, on notice as provided in the Indenture, at its option and (subject to any applicable regulatory approval), elect to satisfy the obligation to pay, in whole or in part, the principal amount of this Initial Debenture on the Maturity Date or on redemption by issuing and delivering that number of Freely Tradeable Units to the holder of this Initial Debenture obtained by dividing the principal amount of this Initial Debenture by 95% of the Current Market Price on the Maturity Date or the date fixed for redemption, as the case may be.

The indebtedness evidenced by this Initial Debenture, and by all other Debentures now or hereafter certified and delivered under the Indenture, is a direct unsecured obligation of the REIT, and is subordinated in right of payment, to the extent and in the manner provided in the Indenture, to the prior payment of all Senior Indebtedness, whether outstanding at the date hereof or thereafter created, incurred, assumed or guaranteed.

The principal hereof may become or be declared due and payable before the stated maturity in the events, in the manner, with the effect and at the times provided in the Indenture.

The Indenture contains provisions making binding upon all Debentureholders outstanding thereunder (or in certain circumstances, specific series of Debentures) resolutions passed at meetings of such holders held in accordance with such provisions and instruments signed by the holders of a specified majority of Debentures outstanding (or specific series), which resolutions or instruments may have the effect of amending the terms of this Initial Debenture or the Indenture. Further, in certain cases, the holders of not less than 66⅔% of the principal amount of Debentures then outstanding may, on behalf of all Debentureholders, waive any Event of Default and/or cancel any such declaration upon such terms and conditions as such holders shall prescribe.

The Indenture contains provisions disclaiming any personal liability on the part of Trustees, holders of Units or special voting units of the REIT, and officers, employees, agents or annuitants or beneficiaries of any plan of which a holder of Units or special voting units of the REIT acts as trustee or carrier, of the REIT in respect of any obligation or claim arising out of the Indenture or this Initial Debenture.

This Initial Debenture may only be transferred, upon compliance with the conditions prescribed in the Indenture, in one of the registers to be kept at the principal offices of the Debenture Trustee in



Toronto, Ontario and in such other place or places and/or by such other registrars (if any) as the REIT with the approval of the Debenture Trustee may designate. No transfer of this Initial Debenture shall be valid unless made on the register by the registered holder hereof or his executors or administrators or other legal representatives, or his or their attorney duly appointed by an instrument in form and substance satisfactory to the Debenture Trustee or other registrar, and upon compliance with such reasonable requirements as the Debenture Trustee and/or other registrar may prescribe and upon surrender of this Initial Debenture for cancellation. Thereupon a new Initial Debenture or Initial Debentures in the same aggregate principal amount shall be issued to the transferee in exchange hereof.

This Initial Debenture shall not become obligatory for any purpose until it shall have been certified by the Debenture Trustee under the Indenture.

The Indenture and this Initial Debenture shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Capitalized words or expressions used in this Initial Debenture shall, unless otherwise defined herein, have the meaning ascribed thereto in the Indenture. **In the event that the terms and conditions stated in this Debenture conflict, or are inconsistent with, the terms and conditions of the Indenture, the Indenture shall prevail and take priority.**

**IN WITNESS WHEREOF SLATE OFFICE REIT** has caused this Initial Debenture to be signed by its authorized signatory as of the \_\_\_\_\_ day \_\_\_\_\_, 2018.

**SLATE OFFICE REIT**

By: \_\_\_\_\_  
Authorized Signatory

**DEBENTURE TRUSTEE'S CERTIFICATE**

This Initial Debenture is one of the 5.25% Convertible Unsecured Subordinated Debentures referred to in the Indenture within mentioned. TSX Trust Company

By:

\_\_\_\_\_  
Authorized Officer

Date:

**ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ whose address and social insurance number, if applicable, are set forth below, this 5.25% Convertible Unsecured Subordinated Debenture bearing Certificate No. \_\_\_\_\_ (the "**Initial Debenture**") (or \$ \_\_\_\_\_ **principal amount** hereof) of SLATE OFFICE REIT (the "**REIT**") standing in the names) of the undersigned in the register maintained by the REIT with respect to such Initial Debenture and does hereby irrevocably authorize and direct \_\_\_\_\_ to transfer such Initial Debenture in such register, with full power of substitution in the premises.

Date: \_\_\_\_\_

Address of Transferee: \_\_\_\_\_

(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable: \_\_\_\_\_

\*If less than the full principal amount of the within Initial Debenture is to be transferred, indicate in the space provided the principal amount (which must be \$1,000 or an integral multiple thereof, unless you hold an Initial Debenture in a non-integral multiple of \$1,000, in which case such Initial Debenture is transferable only in its entirety) to be transferred.

1. The signatures to this assignment must correspond with the names as written upon the face of this Initial Debenture in every particular without alteration or any change whatsoever. The signatures must be guaranteed by a Schedule I Canadian chartered bank or by a member of a recognized Medallion Guarantee Program. Notarized or witnessed signatures are not acceptable as guaranteed signatures. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".
2. The registered holder of this Initial Debenture is responsible for the payment of any documentary, stamp or other transfer taxes that may be payable in respect of the transfer of this Debenture.

\_\_\_\_\_  
Signature of Guarantor

\_\_\_\_\_  
Authorized Officer                      Signature of Transferring  
Registered Holder

\_\_\_\_\_  
Name of Institution

**CONVERSION NOTICE**

**TO: SLATE OFFICE REIT**

All capitalized terms used herein have the meaning ascribed thereto in the Indenture mentioned below, unless otherwise indicated

The undersigned registered holder of this Initial Debenture bearing Certificate No. \_\_\_\_\_ irrevocably elects to convert this Initial Debenture (or \$ \_\_\_\_\_ principal amount hereof) in accordance with the terms of the Indenture and tenders herewith this Initial Debenture, and, if applicable, directs that the Units of SLATE OFFICE REIT issuable upon a conversion be issued and delivered to the person indicated below. (If Units are to be issued in the name of a person other than the holder of this Initial Debenture, all requisite transfer taxes must be tendered by the undersigned).

\_\_\_\_\_  
Date • (Signature of Registered Holder)

\*If less than the full principal amount of this Initial Debenture, indicate in the space provided the principal amount (which must be \$1,000 or integral multiples thereof).

NOTE: If Units are to be issued in the name of a Person other than the holder, the signature must be guaranteed by a Schedule I Canadian chartered bank or by a member of a recognized Medallion Guarantee Program. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED"

(Print name in which Units are to be issued, delivered and registered)

\_\_\_\_\_  
Name:

\_\_\_\_\_  
(Address)                      (City, Province and Postal Code)

\_\_\_\_\_  
Name of guarantor:

\_\_\_\_\_  
Authorized signature

## SCHEDULE "B"

### FORM OF REDEMPTION NOTICE

#### SLATE OFFICE REIT

#### 5.25% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES

#### REDEMPTION NOTICE

To: Holders of 5.25% convertible unsecured subordinated debentures (the "**Initial Debentures**") of Slate Office REIT (the "**REIT**")

Note: All capitalized terms used herein have the meaning ascribed thereto in the Indenture (as defined below), unless otherwise indicated.

Notice is hereby given pursuant to Section 4.3 of the trust indenture dated January 26, 2018 (the "**Indenture**") between the REIT and TSX Trust Company, as trustee (the "**Debenture Trustee**"), that the aggregate principal amount of all Initial Debentures outstanding [\$\_\_\_\_\_ aggregate principal amount of the Initial Debentures] will be redeemed as of \_\_\_\_\_ (the "**Redemption Date**") upon payment of a redemption amount of \$\_\_\_\_\_ for each \$1,000 principal amount of Initial Debentures, being equal to the aggregate of (i) \$1,000 (the "**Redemption Price**"), and (ii) all accrued and unpaid interest thereon to but excluding the Redemption Date (collectively with the Redemption Price, the "**Redemption Payment Amount**"). All payments made pursuant hereto will be net of all applicable withholding taxes.

The Redemption Payment Amount will be payable upon presentation and surrender of the Initial Debentures called for redemption at the following corporate trust office:

TSX Trust Company  
301 – 100 Adelaide Street West  
Toronto, Ontario M5H 4H1

Attention: Vice President, Trust Services  
Fax: (416) 361-0470

The interest upon the principal amount of Initial Debentures called for redemption shall cease to be payable from and after the Redemption Date, unless payment of the Redemption Payment Amount shall not be made on presentation for surrender of such Initial Debentures at the above-mentioned corporate trust office on or after the Redemption Date or prior to the setting aside of the Redemption Payment Amount pursuant to the Indenture.

Pursuant to Section 4.6 of the Indenture, the REIT hereby irrevocably elects to satisfy its obligation to pay to holders of the Initial Debentures the Redemption Price by issuing and delivering to the holders that number of Freely Tradeable Units obtained by dividing the Redemption Price by 95% of the then Current Market Price of the Units on the Redemption Date.

No fractional Units shall be delivered upon the exercise by the REIT of the Trust Unit Redemption Right but, in lieu thereof, the REIT shall pay the cash equivalent thereof determined on the basis of the Current Market Price of Units on the Redemption Date (less any tax required to be deducted, if any).

In this connection, upon presentation and surrender of the Initial Debentures for payment on the Redemption Date, the REIT shall, on the Redemption Date, make the delivery to the Debenture Trustee, at the above-mentioned corporate trust office, for delivery to and on account of the holders, of the number of the Freely Tradeable Units (in book-based or certificated form) to which holders are entitled together with the cash equivalent in lieu of fractional Units, cash for all accrued and unpaid interest up to, but excluding, the Redemption Date, and, if only a portion of the Initial Debentures are to be redeemed by issuing Freely Tradeable Units, cash representing the balance of the Redemption Price.

DATED:

**SLATE OFFICE REIT**

By:

\_\_\_\_\_  
Authorized Signatory

**SCHEDULE “C”**

**FORM OF MATURITY NOTICE**

**SLATE OFFICE REIT**

**5.25% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES**

**MATURITY NOTICE**

To: Holders of 5.25% convertible unsecured subordinated debentures (the “**Initial Debentures**”) of Slate Office REIT (the “**REIT**”)

Note: All capitalized terms used herein have the meanings ascribed thereto in the Indenture (as defined below), unless otherwise indicated.

Notice is hereby given pursuant to Sections 2.4(g) Section 4.10(b) of the trust indenture dated January 26, 2018 (the “**Indenture**”) between the REIT and TSX Trust Company, as trustee (the “**Debenture Trustee**”), that the Debentures are due and payable as of the Maturity Date, and the REIT hereby advises the holders of [an aggregate principal amount of \$ \_\_\_\_\_ of the] Initial Debentures that it will deliver to holders of Initial Debentures that number of Freely Tradeable Units equal to the number obtained by dividing the aggregate principal amount of such Initial Debentures by 95% of the Current Market Price of Units on the Maturity Date or in lieu thereof, a cash payment or any combination thereof. Upon presentation and surrender of the Initial Debentures, the REIT will pay or cause to be paid in cash to the holder all accrued and unpaid interest to the Maturity Date, together with the cash equivalent representing fractional Units, and shall, on the Maturity Date, send to the Debenture Trustee the Freely Tradeable Units (in book-based or certificated form) to which the holder is entitled. All payments made pursuant hereto will be net of all applicable withholding taxes.

DATED:

**SLATE OFFICE REIT**

By: \_\_\_\_\_  
Authorized Signatory

## SCHEDULE "D"

### FORM OF DECLARATION FOR REMOVAL OF LEGEND

TO: TSX Trust Company, as trustee and registrar of the 5.25% Convertible Unsecured Subordinated Debentures of Slate Office REIT

The undersigned (a) acknowledges that the sale of the securities of Slate Office REIT (the "**REIT**") to which this declaration relates is being made in reliance on Rule 904 of Regulation S ("**Regulation S**") under the United States Securities Act of 1933, as amended (the "1933 Act"), and (b) certifies that (1) it is not an affiliate (as defined in Rule 405 under the 1933 Act) of the REIT, (2) the offer of such securities was not made to a person in the United States and either (A) at the time the buy order was originated, the buyer was outside the United States, or the seller and any person acting on its behalf reasonably believe that the buyer was outside the United States, or (B) the transaction was executed on or through the facilities of a designated offshore securities market and neither the seller nor any person acting on its behalf knows that the transaction has been prearranged with a buyer in the United States, (3) neither the seller nor any affiliate of the seller nor any person acting on any of their behalf has engaged or will engage in any directed selling efforts in the United States in connection with the offer and sale of such securities, (4) the sale is *bona fide* and not for the purpose of "washing off" the resale restrictions imposed because the securities are "restricted securities" (as such term is defined in Rule 144(a)(3) under the 1933 Act), (5) the seller does not intend to replace the securities sold in reliance on Rule 904 of Regulation S with fungible unrestricted securities, and (6) the contemplated sale is not a transaction, or part of a series of transactions which, although in technical compliance with Regulation S, is part of a plan or scheme to evade the registration provisions of the 1933 Act. Terms used herein have the meanings given to them by Regulation S.

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

By: \_\_\_\_\_  
Name:  
Title: