

MELCOR DEVELOPMENTS LTD.

– and –

MELCOR REAL ESTATE INVESTMENT TRUST

– and –

MELCOR REIT GP INC.

ARRANGEMENT AGREEMENT

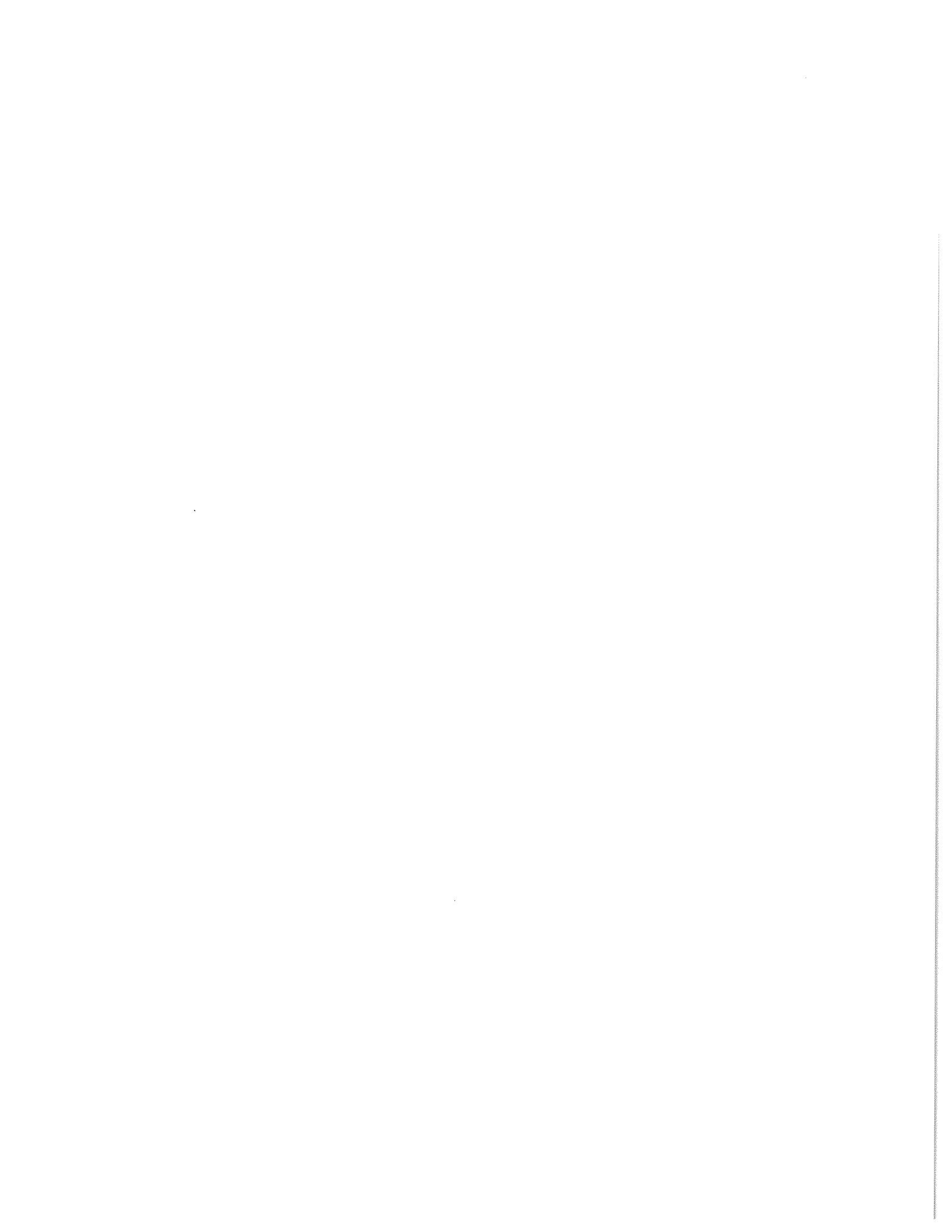
September 12, 2024

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ARRANGEMENT AGREEMENT

THIS AGREEMENT made September 12, 2024.

BETWEEN:

MELCOR DEVELOPMENTS LTD., a corporation existing under the laws of the Province of Alberta (the “**Purchaser**”)

- and -

MELCOR REAL ESTATE INVESTMENT TRUST, an open-ended real estate investment trust established pursuant to the laws of the Province of Alberta (the “**REIT**”)

- and -

MELCOR REIT GP INC., a corporation existing under the laws of the Province of Alberta (the “**GP**”)

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party, the Parties hereby covenant and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith, the following terms shall have the respective meanings set out below and grammatical variations shall have the corresponding meanings:

- (a) “**ABCA**” means the *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended, including the regulations promulgated thereunder.
- (b) “**Acquisition Proposal**” means, other than the transactions contemplated by this Agreement, any offer, proposal, inquiry or expression of interest (written or oral) from any Person or group of Persons other than the Purchaser (or any Affiliate of the Purchaser or any Person acting jointly or in concert with the Purchaser or any Affiliate of the Purchaser) relating to, in each case whether in a single transaction or a series of related transactions: (i) any sale, disposition or joint venture (or any lease, license or other arrangement having the same economic effect as a sale), direct or indirect, of assets representing 20% or more of the consolidated assets, or contributing 20% or more of the consolidated revenue or gross operating profit, of the REIT on a consolidated basis or of or involving 20% or more of the voting or equity securities (or rights or interests in or convertible or exchangeable into such voting or equity securities) of the REIT or any of its Subsidiaries or Joint Ventures whose assets, individually or in the aggregate, represent 20% or more of the consolidated assets or contribute 20% or more of the consolidated revenue or gross operating profit of the REIT on a consolidated basis, (ii) any take-over bid, exchange offer, treasury issuance or other transaction that, if consummated, would result in such person or group of persons directly or indirectly beneficially owning

20% or more of any class of voting or equity securities (or rights or interests in or convertible or exchangeable into such voting or equity securities) of the REIT or of any of its Subsidiaries or Joint Ventures, whose assets, individually or in the aggregate, represent 20% or more of the consolidated assets or contribute 20% or more of the consolidated revenue or gross operating profit of the REIT on a consolidated basis, (iii) any plan of arrangement, merger, amalgamation, consolidation, share exchange or business combination involving the REIT or any of its Subsidiaries or Joint Ventures, or (iv) any other transaction or series of transactions involving the REIT or any of its Subsidiaries or Joint Ventures that would have the same effect as the foregoing (and, for purposes of the foregoing, the consolidated assets, consolidated revenue and gross operating profit shall be determined based upon the most recently publicly available consolidated financial statements of the REIT). Notwithstanding the foregoing and for clarity, any action taken, directly or indirectly, by the Purchaser in any Capacity or its Representatives in respect of the foregoing will not constitute an “**Acquisition Proposal**”.

- (c) “**Action**” means any litigation, legal action, lawsuit, claim, audit, arbitration or other proceeding (whether civil, quasi-criminal, criminal, regulatory or administrative) by or before any Regulatory Authority.
- (d) “**Affiliate**” means (i) with respect to any Person, any other Person that controls or is controlled by or is under common control with the relevant Person, and (ii) for purposes of this Agreement, the REIT and its wholly-owned Subsidiaries shall be deemed not to be “Affiliates” of the Purchaser.
- (e) “**Agreement**” means this arrangement agreement (including the schedules hereto) as the same may be amended, supplemented or otherwise modified from time to time in accordance with its terms.
- (f) “**Arrangement**” means an arrangement under section 193 of the ABCA in accordance with the terms and subject to the conditions set out in the Plan of Arrangement, subject to any amendments or variations to the Plan of Arrangement made in accordance with the terms of this Agreement, the Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of the Purchaser and the REIT, each acting reasonably.
- (g) “**Arrangement Resolution**” means the special resolution approving the Plan of Arrangement to be considered at the Meeting, substantially in the form of Schedule B.
- (h) “**Articles of Arrangement**” means the articles of arrangement of the REIT and the GP in respect of the Arrangement required by the ABCA to be sent to the Registrar after the Final Order has been granted, giving effect to the Arrangement, which shall include the Plan of Arrangement and otherwise be in a form and content satisfactory to the REIT and the Purchaser, each acting reasonably.
- (i) “**Asset Management Agreement**” means the amended and restated asset management agreement between the Purchaser and the REIT dated May 26, 2022, pursuant to which the Purchaser provides asset management services to the REIT.
- (j) “**Authorization**” means any order, permit, license, quota, allocation, approval, registration, consent, right, waiver or similar authorization of any Regulatory

Authority whether by expiry or termination of an applicable waiting period or otherwise, that is binding upon or applicable to a Person or its business, assets or securities, but for greater certainty excludes Regulatory Approvals.

- (k) “**Board**” means the board of trustees of the REIT, as constituted from time to time.
- (l) “**Board Recommendation**” has the meaning set out in Section 2.2.
- (m) “**Breaching Party**” has the meaning set out in Section 4.7(c).
- (n) “**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which major banks are closed for business in Edmonton, Alberta.
- (o) “**Capacity**” means, in respect of the Purchaser, (i) its capacity as manager (or otherwise) pursuant to the Asset Management Agreement and/or the Property Management Agreement (including predecessor agreements thereof), (ii) its capacity as a direct or indirect holder, or Person having control or direction over, voting or equity securities of the REIT; or (iii) its capacity as a direct or indirect holder, or Person having control or direction over, units of the Limited Partnership;
- (p) “**Certificate of Arrangement**” means the proof of filing to be issued by the Registrar pursuant to Subsection 193(11) of the ABCA in respect of the Articles of Arrangement.
- (q) “**Change in Recommendation**” has the meaning set out in Section 7.2(d)(ii).
- (r) “**Circular**” means the notice of the Meeting and accompanying management information circular, including all schedules, appendices and exhibits to, and information incorporated by reference in, such management information circular, to be sent to Unitholders and Special Voting Unitholders in connection with the Meeting, as amended, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement and the Interim Order (once issued).
- (s) “**Cross Trustees**” means the trustees of the REIT who are also directors and/or executive officers of the Purchaser as of the date of this Agreement.
- (t) “**Consideration**” has the meaning specified in the Plan of Arrangement.
- (u) “**Constating Documents**” means articles of incorporation, amalgamation, or continuation, as applicable, by-laws, limited partnership agreement, declaration of trust or other constating documents and all amendments thereto.
- (v) “**Contract**” means any legally binding agreement, contract, license, lease, arrangement, commitment, obligation or understanding (whether written or oral) to which a Person is a party or by which a Person is bound or affected or to which any of their respective properties or assets is subject, but for greater certainty excludes Authorizations.
- (w) “**Court**” means the Court of King’s Bench of Alberta.
- (x) “**Debenture Indenture**” has the meaning specified in the Plan of Arrangement.

- (y) **“Debenture Repayment Amount”** means the aggregate principal amount of all Debentures outstanding on the Redemption Date (excluding, for certainty, any interest accrued thereon) payable by the REIT in connection with the redemption in full of the Debentures on such date in accordance with the terms of the Debenture Indenture;
- (z) **“Debentures”** means the 5.10% convertible unsecured subordinated debentures of the REIT due December 31, 2024.
- (aa) **“Declaration of Trust”** means the Amended and Restated Declaration of Trust of the REIT dated as of May 1, 2013, as further amended from time to time, which is governed by the laws of the Province of Alberta.
- (bb) **“Depository”** means Odyssey Trust Company, in its capacity as depository for the Arrangement, or such other Person as the REIT and the Purchaser agree to engage as depository for the Arrangement.
- (cc) **“Designated Cross Trustee”** means Naomi Stefura.
- (dd) **“Dissent Rights”** means the rights of dissent in respect of the Arrangement as described in the Plan of Arrangement.
- (ee) **“Effective Date”** means the date the Arrangement is effective under the ABCA, being the date shown on the Certificate of Arrangement.
- (ff) **“Effective Time”** has the meaning specified in the Plan of Arrangement.
- (gg) **“Encumbrance”** includes any mortgage, pledge, hypothec, charge, prior claim, security interest, encroachment, option, right of first refusal or first offer, restrictive covenant, assignment, lien (statutory or otherwise), defect of title or encumbrance of any kind.
- (hh) **“Environmental Laws”** means all Laws and Contracts with Regulatory Authorities and all other statutory requirements, relating to public health or the protection of the environment and all Regulatory Approvals issued pursuant to such Laws, agreements or other statutory requirements.
- (ii) **“Exchange Agreement”** has the meaning specified in the Plan of Arrangement.
- (jj) **“Excluded Party”** means any Person from whom the REIT or any of its Representatives has received a *bona fide* written Acquisition Proposal after the date of this Agreement and prior to the conclusion of the Go-Shop Period, which written Acquisition Proposal the Board (excluding the Cross Trustees) has determined in good faith prior to the expiry of the Go-Shop Period, constitutes, or could reasonably be expected to constitute or lead to a Superior Proposal; provided, however, that a Person will immediately cease to be an Excluded Party and the provisions of this Agreement applicable to Excluded Parties will cease to apply with respect to such Person if (i) such Acquisition Proposal made by such Person prior to the expiry of the Go-Shop Period is withdrawn, or (ii) such Acquisition Proposal, in the good faith determination of the Board (excluding the Cross Trustees), no longer constitutes, or could no longer reasonably be expected to constitute or lead to a Superior Proposal.

- (kk) “**executive officer**” has the meaning given to it in National Instrument 51-102 – *Continuous Disclosure Obligations*.
- (ll) “**Existing Subsidiary Financing**” means the existing credit agreements, commitment letters, trust indentures, mortgages and operating line facilities and related security documents of the Subsidiaries of the REIT existing on the date hereof.
- (mm) “**Fairness Opinions**” means the opinions of each of BMO Nesbitt Burns Inc. and Ventum Financial Corp., dated the date of this Agreement to the effect that, as of the date of such opinion, the Consideration to be received by the Unitholders is fair, from a financial point of view, to such Unitholders.
- (nn) “**Final Order**” means the final order of the Court approving the Arrangement under section 193(4) of the ABCA in a form acceptable to the REIT and the Purchaser, each acting reasonably, as such order may be amended, supplemented or varied by the Court (with the consent of both the REIT and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is acceptable to both the REIT and the Purchaser, each acting reasonably) on appeal.
- (oo) “**Formal Valuation**” means the formal valuation of Ventum Financial Corp., pursuant to MI 61-101, together with the related opinion of Ventum Financial Corp., addressed to the Special Committee, dated the date of this Agreement to the effect that, as of the date of such formal valuation, the Consideration to be received by the Unitholders is fair, from a financial point of view, to such Unitholders.
- (pp) “**Go-Shop Fee**” means an amount equal to \$2,900,000.
- (qq) “**Go-Shop Fee Event**” has the meaning set out in Section 7.4(b).
- (rr) “**Go-Shop Period**” means the period commencing immediately following the execution of this Agreement up to and including 11:59 p.m. (Edmonton time) on that date which is thirty (30) days for the date hereof provide that if such date is not a Business Day, the Go-Shop Period shall be up to and including 11:59 p.m. (Edmonton time) on that date which is which is the next Business Day.
- (ss) “**Hazardous Substance**” means any substance or material that is prohibited, controlled or regulated by any Regulatory Authority pursuant to Environmental Laws, including contaminants, pollutants, dangerous substances, dangerous goods, liquid wastes, industrial wastes, hauled liquid wastes, radioactive wastes, toxic substances, hazardous wastes, hazardous materials or hazardous substances.
- (tt) “**IFRS**” means generally accepted accounting principles as set out in the CPA Canada Handbook - Accounting for an entity that prepares its financial statements in accordance with International Financial Reporting Standards.
- (uu) “**Indemnified Person**” has the meaning set out in Section 4.8(a).
- (vv) “**Intellectual Property**” means domestic and foreign: (i) patents, applications for patents and reissues, divisions, continuations, renewals, extensions and

continuations-in-part of patents or patent applications; (ii) proprietary and non-public business information, including trade secrets, confidential information and know-how; (iii) copyrights, copyright registrations and applications for copyright registration; and (iv) trade names, business names, corporate names, domain names, website names and world wide web addresses, common law trade-marks, trade-mark registrations, trade-mark applications, trade dress and logos, and the goodwill associated with any of the foregoing.

- (ww) “**Interim Order**” means the interim order of the Court in a form acceptable to the REIT and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Meeting, as such order may be amended, modified, supplemented or varied by the Court (with the consent of the REIT and the Purchaser, each acting reasonably).
- (xx) “**Joint Ventures**” means, collectively, the following joint ventures:
- (i) the joint venture between the Limited Partnership, Urbancrest Developments Ltd., and Chestermere Springs Inc. with respect to Chestermere Station;
 - (ii) the joint venture between the Limited Partnership and Quinco Financial Inc. with respect to Capilano Centre; and
 - (iii) the joint venture between the Limited Partnership and Aurica Holdings Ltd. with respect to Watergrove;

and with respect to a particular Joint Venture, includes any Persons holding property of such Joint Venture as bare trustee or nominee.

- (yy) “**Law**” means any applicable laws, including federal, national, multinational, provincial, state, municipal, regional and local laws (statutory, common or otherwise), constitutions, treaties, conventions, by-laws, statutes, rules, regulations, principles of law and equity, orders, rulings, certificates, ordinances, judgments, injunctions, determinations, awards, decrees, legally binding codes or other requirements, whether domestic or foreign, and the terms and conditions of any applicable grant of approval, permission, authority or license or other similar requirement of any Regulatory Authority.
- (zz) “**Limited Partnership**” means Melcor REIT Limited Partnership, a limited partnership existing under the laws of the Province of Alberta.
- (aaa) “**Loan Agreement**” means the backstop loan agreement among the REIT, the Limited Partnership and the Purchaser dated the date hereof.
- (bbb) “**Matching Period**” has the meaning set out in Section 6.5(a)(iv).
- (ccc) “**Material Adverse Effect**” means any event, change, occurrence, development, effect, state of facts or circumstances that, individually or in the aggregate with other events, changes, occurrences, developments, effects, state of facts or circumstances, is, or would reasonably be expected to be, material and adverse to the business, operations, results of operations, property, assets (tangible or intangible), liabilities (whether absolute, accrued, conditional or otherwise) or financial condition of the REIT and its Subsidiaries and Joint Ventures taken as a

whole, except any such event, change, occurrence, development, effect, state of facts or circumstances resulting from or arising in connection with or related to:

- (i) any change, effect, event, circumstance, development, fact or occurrence affecting the Canadian real estate industry in which the REIT and its Subsidiaries operate or carry on their business;
- (ii) any change or development in global, national or regional political (including the outbreak, escalation or worsening of war, armed hostilities or acts of terrorism) or in general economic, business, regulatory, currency exchange, interest rate, inflation rates or market conditions or in national or global financial, credit, commodities, securities or capital markets;
- (iii) any adoption, proposal, implementation or change in Law or any interpretation of Law by any Regulatory Authority;
- (iv) any change in IFRS (or comparable applicable national accounting standards) or regulatory accounting or Tax requirements, or in the implementation, non-implementation or interpretation thereof;
- (v) any natural or man-made disaster or act of God including, any hurricane, wildfire, flood, tornado, earthquake, epidemics, pandemics and disease outbreaks, health crises or public health events, including the escalation or worsening thereof;
- (vi) the execution, performance or announcement of this Agreement, the Arrangement or the transactions contemplated by this Agreement;
- (vii) any action taken (or omitted to be taken) by the REIT or any of its Subsidiaries or Joint Ventures (A) expressly required to be taken (or omitted to be taken) pursuant to this Agreement, (B) required by Law, (C) that are taken (or omitted to be taken) at the written request, or with the prior written consent of, the Purchaser or its Representatives;
- (viii) any change, effect, event, circumstance, development, fact or occurrence as a direct or indirect consequence of any approval by, or action taken (or omitted to be taken) by the Purchaser, in any of its Capacities, excluding a Permitted Action;
- (ix) any failure by the REIT or any of its Subsidiaries or Joint Ventures, as applicable, to meet any internal or public projections, forecasts, guidance or estimates, including of revenues or earnings;
- (x) any change in the market price or trading volume of any securities of the REIT (it being understood that the causes underlying such change in market price or trading volume may, to the extent not otherwise excluded, be taken into account in determining whether a Material Adverse Effect has occurred);
- (xi) any change in any analyst recommendations or ratings with respect to the REIT (it being understood that the causes underlying such change may, to the extent not otherwise excluded, be taken into account in determining whether a Material Adverse Effect has occurred);

- (xii) any litigation or threatened litigation relating to this Agreement or the transactions contemplated hereby;
- (xiii) any matter which has been publicly disclosed in the REIT Public Documents (other than under the headings "Risk Factors" or "Forward Looking Statements" and any other similar disclosures contained therein that are predictive, cautionary or forward-looking in nature) or of which the Purchaser otherwise has sufficient knowledge, as of the date of this Agreement, to understand the nature and importance of such matter; and
- (xiv) any actions taken (or omitted to be taken) by the Purchaser, in any of its Capacities, or any of its Representatives (excluding a Permitted Action);

provided, however, that any such event, change, occurrence, development, effect, state of facts or circumstances referred to in clauses (i) through to and including (v) of this definition does not) have a materially disproportionate adverse effect on the REIT and its Subsidiaries and Joint Ventures, taken as a whole, relative to other comparable Persons operating in the Canadian real estate industry, in which case such effect may be taken into account in determining whether a Material Adverse Effect has occurred (in which case, only the incremental disproportionate adverse effect may be taken into account in determining whether a Material Adverse Effect has occurred). For clarity, references in certain Sections of this Agreement to dollar amounts are not intended to be, and shall not be deemed to be, illustrative for purposes of determining whether a "Material Adverse Effect" has occurred.

- (ddd) "**material change**" has the meaning set out in the Securities Act.
- (eee) "**Material Contracts**" means any Contract that the REIT or any of its Subsidiaries or Joint Ventures is a party: (i) that if terminated or modified or if it ceased to be in effect, would reasonably be expected to have a Material Adverse Effect; (ii) under which the REIT or any of its Subsidiaries or Joint Ventures has directly or indirectly guaranteed any liabilities or obligations of a third party (other than ordinary course endorsements for collection) in excess of \$250,000; (iii) relating to indebtedness for borrowed money in excess of \$250,000 whether incurred, assumed, guaranteed or secured by any asset; (iv) providing for the establishment, investment in, organization or formation of any joint ventures or partnerships with any third party; (v) under which the REIT or any of its Subsidiaries and Joint Ventures is obligated to make or expects to receive payments in excess of \$250,000 over the remaining term of such Contract; (vi) that limits or restricts the REIT or any of its Subsidiaries and Joint Ventures in any material respect from engaging in any line of business or from carrying on business in any geographic area or that creates an exclusive dealing arrangement or right of first offer or refusal; (vii) that is a collective bargaining agreement; (viii) which were not approved or authorized by the Purchaser, directly or indirectly, in any Capacity, or its Representatives; or (x) which are otherwise material to the REIT and its Subsidiaries and Joint Ventures on a consolidated basis.
- (fff) "**Meeting**" means the special meeting of Unitholders and Special Voting Unitholders, including any adjournment or postponement of such special meeting in accordance with the terms of this Agreement, to be called and held in accordance with the Interim Order to consider and, if thought fit, approving (i) the

Arrangement Resolution, (ii) all other matters requiring approval pursuant to the terms and conditions of this Agreement or the Interim Order, and (iii) any other matter set out in the Circular and agreed to in writing by the REIT and the Purchaser in accordance with this Agreement.

- (ggg) “**MI 61-101**” means Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*.
- (hhh) “**misrepresentation**” has the meaning set out in the Securities Act.
- (iii) “**Net Payment Obligation**” means the aggregate amount (inclusive of repayment of indebtedness, interest, penalties, fees or other amounts payable on payout or acceleration thereof, in ease case, to the extent required) required to be paid in respect of Existing Subsidiary Financing arrangements (excluding the Senior Credit Agreement) which are held by prescribed lenders.
- (jjj) “**Ordinary Course**” means, with respect to an action taken by a Person, that such action is, in all material respects, taken in the ordinary course of the normal operations of such Person consistent with past practices.
- (kkk) “**Outside Date**” means March 31, 2025 or such later date as the REIT and the Purchaser may agree in writing.
- (lll) “**Parties**” means the REIT, the GP and the Purchaser and “**Party**” means any one of them, as the context requires.
- (mmm) “**Permitted Action**” means any action or step taken by the Purchaser on behalf of the REIT, any of the REIT’s Subsidiaries or a Joint Venture in the Purchaser’s capacity as property manager pursuant to the Property Management Agreement:
 - (i) which is commercially reasonable, taken in good faith and, where reasonable, with the approval of the Board (excluding the Cross Trustees), in order to preserve the assets and business of the REIT, any of the REIT’s Subsidiaries or a Joint Venture; or
 - (ii) at the direction of the Board (excluding the Cross Trustees).
- (nnn) “**Permitted Liens**” means, as of any particular time, any one or more of the following Encumbrances in respect of any Properties or personal property of the REIT or any of its Subsidiaries, as applicable:
 - (i) any subsisting restrictions, exceptions, reservations, limitations, provisos and conditions (including royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grants from the Crown and any limitations, exceptions, reservations and qualifications to title, in each case, which is statutory;
 - (ii) any registered restrictions or covenants on title to any Property as of the date hereof and any other restrictions or covenants which run with the land and which do not materially impair the current use, operation or marketability of such Property;

- (iii) any unregistered easements regarding the provision of utilities to any Property which do not materially impair the current use, operation or marketability of such Property;
- (iv) the exceptions and qualifications contained in Section 61 of the Land Titles Act (Alberta) or similar exceptions and qualifications contained in similar legislation in which province such Property is located;
- (v) unregistered, statutory or inchoate Encumbrances of contractors, subcontractors, mechanics, workers, suppliers, materialmen, builders, warehousemen, carriers and other similar liens arising in the Ordinary Course or that relate to obligations that are not due and payable or that are being contested in good faith, a claim for which shall not at the time have been registered against the applicable Property and notice of which in writing shall not at the time been given to the REIT or any of its Subsidiaries;
- (vi) Encumbrances arising out of any judgment rendered or claim filed against the REIT or any of its Subsidiaries which is being contested by such party in good faith;
 - (i) unregistered or inchoate Encumbrances for Taxes which are not yet due or payable or that are being contested in good faith;
 - (ii) security given to a public utility or any municipality or governmental or other public authority when required by the operations of any Property in the ordinary course of business; permits, reservations, covenants, servitudes, watercourse, rights of water, rights of access or user licenses, easements, rights-of-way and rights in the nature of easements (including, without in any way limiting the generality of the foregoing, licenses, easements, rights-of-way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone and telegraph conduits, poles, wires and cables) in favour of Regulatory Authority or utility company in connection with the development, servicing, use or operation of any Property that do not materially and adversely affect the value or the present use of such Property;
 - (iii) any encroachments, title defects or irregularities which do not in the aggregate materially and adversely affect the value or the present use of the applicable Property;
 - (iv) purchase money security interests and refinancings thereof;
 - (v) any matters disclosed by a survey (or certificate of location) of any Property provided such matters do not in the aggregate materially and adversely affect the value or the present use of such Property;
 - (vi) registered development agreements, subdivision agreements, site plan control agreements, servicing agreements and other similar agreements with any Regulatory Authority or utility company affecting the development, servicing, use or operation of any Property that do not materially and adversely affect the value or the present use of such Property;

- (vii) the right reserved to or vested in any Regulatory Authority by any statutory provision;
 - (viii) registered cost sharing, servicing, reciprocal or other similar agreements relating to the use and/or operation of the Property and to obligations;
 - (ix) municipal zoning, land use and building restrictions, by-laws, regulations and ordinances of federal, provincial, municipal or other Regulatory Authority, including municipal by-laws and regulations, airport zoning regulations, restrictive covenants and other land use limitations, by-laws and regulations and other restrictions as to the use of an applicable Property;
 - (x) the Existing Subsidiary Financing and related security;
 - (xi) security interests under Contracts granted in connection with the leasing or financing of personal property and similar transactions (including renewals of existing leases of personal property) in the ordinary course of business to secure rentals or the unpaid purchase price or lease cost of such personal property provided that any such lease is secured only by the personal property leased therein;
 - (xii) all new leases and renewals, extensions, modifications, restatements and replacements thereof entered into subsequent to the date of this Agreement in compliance with the terms of this Agreement and any options or rights in favour of a tenant of a Property or other third party contained therein;
 - (xiii) servicing agreements and contracts for services with respect to any Property entered into in the ordinary course of business on arm's length terms and conditions;
 - (xiv) restrictions in the original grant from the Crown or unregistered servitudes and other unregistered restrictions affecting the use of any Property;
 - (xv) any registered liens together with any certificate of action registered in respect thereof relating to work done by or for the benefit of a tenant of such Property (a "Tenant Lien") so long as the REIT or any REIT Subsidiary, as applicable, has not assumed responsibility for such Tenant Lien;
 - (xvi) any instrument, easement, servitude, covenants, right of way, charge, caveat, lease, agreement or other document, Encumbrance or restriction registered or recorded against title to any Property on or prior to the date hereof; and
 - (xvii) unrecorded leasehold interests in respect of leases on the rent roll of the REIT or its Subsidiaries as of the date hereof.
- (ooo) "**Person**" means an individual, general partnership, limited partnership, association, body corporate, organization, trust, estate, trustee, executor, administrator or other legal representative, government (including a Regulatory Authority), or other entity, whether or not having legal status.

- (ppp) “**Plan of Arrangement**” means the plan of arrangement, substantially in the form of Schedule A, subject to any amendments or variations to such plan made in accordance with the Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of both the REIT and Purchaser, each acting reasonably.
- (qqq) “**Pre-Arrangement Reorganization**” has the meaning set forth in Section 4.10.
- (rrr) “**Properties**” means the real property, including all buildings, structures and other improvements located thereon, legally or beneficially owned by the REIT or its Subsidiaries.
- (sss) “**Property Management Agreement**” means the amended and restated agreement between the REIT and the Purchaser dated May 26, 2022, pursuant to which the Purchaser provides property management services to the REIT.
- (ttt) “**Purchaser Termination Fee Event**” has the meaning set forth in Section 7.4(f).
- (uuu) “**Redemption Date**” has the meaning set forth in Section 4.12.
- (vvv) “**Redemption Notice**” has the meaning set forth in Section 4.12.
- (www) “**Registrar**” means the Registrar of Corporations for the Province of Alberta duly appointed pursuant to Section 263 of the ABCA.
- (xxx) “**REIT Confidentiality Agreement**” has the meaning set out in Section 6.2(b).
- (yyy) “**REIT Public Documents**” means all documents filed under the profile of the REIT on SEDAR Plus on or after December 31, 2023.
- (zzz) “**REIT Termination Fee Event**” has the meaning set out in Section 7.4(c).
- (aaaa) “**REIT Unitholder Approval**” means the approval of the Arrangement Resolution at the Meeting in accordance with Section 2.3(c), together with any other vote required under the Interim Order.
- (bbbb) “**Regulatory Approvals**” means those sanctions, rulings, consents, orders, clearances, exemptions, permits and other approvals (including the waiver or lapse, without objection, of a prescribed time under Law that states that a transaction may be implemented if a prescribed time lapses following the giving of notice without an objecting being made), waivers, early terminations, authorizations, clearances, or written confirmations of no intention to initiate legal proceedings from Regulatory Authorities, or any registration or filing with any Regulatory Authority, in each case required to consummate the Arrangement or the transactions contemplated by this Agreement, but excluding, for greater certainty, the approval of the Arrangement by the Court.
- (cccc) “**Regulatory Authority**” means any (i) international, multinational, federal, national, provincial, state, regional, municipal, local or other government, governmental or public department, ministry, central bank, court, tribunal, arbitral body, office, Crown corporation, commission, board, bureau or agency, domestic or foreign, (ii) subdivision, agent or authority of any of the foregoing, or (iii) quasi-governmental or private body, including any tribunal, commission, stock exchange

(including the TSX), regulatory agency or self-regulatory organization having or purporting to have jurisdiction in the relevant circumstances.

- (dddd) **"Release"** has the meaning given to it under any applicable Environmental Laws, including any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage or placement.
- (eeee) **"Remedial Order"** means any administrative direction, order or sanction issued or imposed by any Regulatory Authority pursuant to any Environmental Laws requiring any remediation, containment, removal or clean-up of any Hazardous Substances or requiring that any Release be reduced, modified or eliminated.
- (ffff) **"Representative"** means, in respect of a Person, any officer, director, trustee, employee, representative (including any financial, legal or other advisor) or agent of such Person.
- (gggg) **"Securities Act"** means the *Securities Act*, R.S.A. 2000, c. S-4, as amended, including the regulations promulgated thereunder.
- (hhhh) **"Securities Authorities"** means the Alberta Securities Commission, any other applicable securities commission or securities regulatory authority of a province or territory of Canada and, where applicable, securities commissions or securities regulatory authorities of a province or territory of Canada.
- (iiii) **"Securities Laws"** means the Securities Act, and the rules, regulations and published policies thereunder, any other applicable Canadian provincial and territorial securities Laws, and, where applicable, applicable securities Laws and regulations of other jurisdictions.
- (jjjj) **"Senior Credit Agreement"** means the amended and restated credit agreement between the Limited Partnership, as borrower, ATB Financial, as administrative agent, lead arranger, syndication agent, sole bookrunner and lender, and Canadian Western Bank, as lender, dated May 27, 2024, as amended by a first amending agreement dated August 29, 2024;
- (kkkk) **"Special Committee"** means the independent committee consisting of independent members of the Board formed to consider, among other things, the Arrangement and the other transactions contemplated by this Agreement.
- (llll) **"Special Voting Unit"** means a non-participating special voting unit of the REIT issued pursuant to, and having the attributes described in, the Declaration of Trust.
- (mmmm) **"Special Voting Unitholder"** means the holder of the Special Voting Units, being the Purchaser.
- (nnnn) **"Subsidiary"** means, with respect to a Person, a corporation, partnership, trust, limited liability company, unlimited liability company, joint venture or other person of which either: (a) such Person or any other subsidiary of the Person is a general partner, managing member or functional equivalent; (b) voting power to elect a majority of the board of directors or trustees or others performing a similar function with respect to such organization is held by such Person or by any one or more of

such Person's subsidiaries; or (c) more than 50% of the equity interest is controlled, directly or indirectly, by such Person.

(oooo) "**Superior Proposal**" means any *bona fide* written Acquisition Proposal from a Person or group of Persons acting jointly or in concert (other than the Purchaser and its Affiliates) made after the date of this Agreement to acquire, directly or indirectly, (a) all of the voting or equity securities of the REIT and other securities which are convertible or exchangeable for voting or equity securities of the REIT (other than and such securities already beneficially owned by such Person or Persons); or (b) all or substantially all of the assets of the REIT on a consolidated basis (including the Class B LP Units and Class C LP Units, each of the Limited partnership), held by the Purchaser), in each case that:

- (i) complies with Law and did not result from or involve a breach of Article 6;
- (ii) the Board (excluding the Cross Trustees) determines is reasonably capable of being completed without undue delay, taking into account all financial, legal, regulatory and other aspects of such Acquisition Proposal and the Person or Persons making such proposal and their respective Affiliates;
- (iii) the Board (excluding the Cross Trustees) determines, in its good faith judgment, after receiving the advice of its outside legal and financial advisors, that, having regard to all terms and conditions of the Acquisition Proposal, such Acquisition Proposal would, if consummated in accordance with its terms and without assuming away the risk of delay or non-completion, result in a transaction which is more favorable from a financial point of view, to the Unitholders in their capacity as such than the Arrangement (including any amendments to the terms and conditions of the Arrangement proposed by the Purchaser pursuant to Section 6.5(b)); and
- (iv) is not subject to any financing condition and in respect of which the Board (or any relevant committee thereof) determines, in its good faith judgment, after receiving the advice of its outside counsel and financial advisors, that adequate arrangements have been made to ensure that the required funds will be available to effect payment in full; and
- (v) is, as at the date the REIT provides the Superior Proposal Notice to the Purchaser, not subject to any due diligence condition.

(pppp) "**Superior Proposal Notice**" has the meaning set out in Section 6.5(a)(iii).

(qqqq) "**Tax**" or "**Taxes**" means (i) any and all taxes, duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind whatsoever imposed by any Regulatory Authority, whether computed on a separate, consolidated, unitary, combined or other basis, including, without limiting the generality of the foregoing, all income taxes (including any tax on or based upon net income, gross income, revenue, income as specially defined, gains, earnings, profits or selected items of income, earnings or profits) and all capital taxes, gross receipts taxes, environmental taxes, sales taxes, use taxes, ad valorem taxes, gains and capital gains taxes, value added taxes, transfer taxes, franchise taxes, license taxes, withholding taxes, payroll taxes, employment taxes,

health taxes, employer health taxes, Canada Pension Plan or Québec Pension Plan premiums, excise, severance, social security, workers' compensation, unemployment insurance or compensation, stamp taxes, occupation taxes, premium taxes, real or personal property taxes, land transfer taxes, windfall profits taxes, wealth taxes, alternative or add-on minimum taxes, goods and services or harmonized sales tax, import taxes, withholding taxes, customs duties, (ii) any interest, penalties, additions to tax or other additional amounts imposed by any Regulatory Authority (domestic or foreign) on or in respect of amounts of the type described in clause (i) above or this clause (ii), (iii) any liability for the payment of any amounts of the type described in clauses (i) or (ii) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period, and (iv) any liability for the payment of any amounts of the type described in clauses (i) or (ii) as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any party.

- (rrrr) "**Tax Act**" means the *Income Tax Act* (Canada), R.S.C., 1985, c. 1 (5th Supp.) and the regulations made thereunder, as now in effect and as they may be promulgated or amended from time to time.
- (ssss) "**Tax Returns**" includes all returns, reports, declarations, elections, notices, filings, forms, statements and other documents (whether in tangible, electronic or other form) and including any amendments, schedules, attachments, supplements, appendices and exhibits thereto, made, prepared, filed or required to be made, prepared or filed in respect of Taxes.
- (tttt) "**Terminating Party**" has the meaning set out in Section 4.7(c).
- (uuuu) "**Termination Fee**" means an amount equal to \$5,800,000.
- (vvvv) "**Termination Notice**" has the meaning set out in Section 4.7(c).
- (wwww) "**TSX**" means the Toronto Stock Exchange.
- (xxxx) "**Unit**" means a participating trust unit of interest in the REIT issued pursuant to the Declaration of Trust and having the attributes described therein.
- (yyyy) "**Unitholders**" means the registered or beneficial holders of the Units.
- (zzzz) "**wilful breach**" means a material breach that is a consequence of an act or failure to act undertaken by the Breaching Party with the actual knowledge that such act or failure to act, as applicable, would, or would reasonably be expected to, cause a breach of this Agreement.

1.2 Certain Rules of Interpretation

In this Agreement, unless otherwise specified:

- (a) references to "Agreement", "this Agreement", "hereto", "herein", "hereby", "hereunder", "hereof" and similar expressions are references to this Agreement as it may from time to time be amended in accordance with its terms and not to any particular Article, Section of or Schedule to this Agreement;

- (b) references to an "Article", "Section" or "Schedule" followed by a number or letter refer to the specified Article or Section of or Schedule to this Agreement;
- (c) the provision of a Table of Contents, the division of this Agreement into Articles and Sections, subsections, paragraphs, clauses and Schedules and the insertion of headings are for convenience of reference only and shall not affect in any way the construction or interpretation of this Agreement;
- (d) words importing the singular shall include the plural and vice versa, and words importing gender shall include all genders;
- (e) references to any agreement or document shall be such agreement or document (together with any schedules and/or exhibits attached thereto), as it may have been or may hereafter be amended, modified, supplemented, waived or restated from time to time;
- (f) the terms "material" and "materially" shall be construed, measured or assessed on the basis of whether the matter would reasonably be expected to materially affect a Party and its Subsidiaries, taken as a whole;
- (g) wherever the term "include", "includes" or "including" is used, it shall be deemed to mean "includes (or include or including), without limitation," and "the aggregate of," "the sum of," or a phrase of similar meaning means "the aggregate (or total sum), without duplication, of";
- (h) for purposes of the definition of Affiliate:
 - (i) a Person controls a body corporate if securities of the body corporate to which are attached more than fifty percent (50%) of the votes that may be cast to elect directors of the body corporate are beneficially owned by the Person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
 - (ii) a Person controls an unincorporated entity, other than a limited partnership, if more than fifty percent (50%) of the ownership interests, however designated, into which the entity is divided are beneficially owned by that Person and the Person is able to direct the business and affairs of the entity; and
 - (iii) the general partner of a limited partnership controls the limited partnership.
- (i) A Person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity;
- (j) A Person is deemed to control, within the meaning of Section 1.2(h)(i) or Section 1.2(h)(ii), an entity if the aggregate of:
 - (i) any securities of the entity that are beneficially owned by that Person; and
 - (ii) any securities of the entity that are beneficially owned by any entity controlled by that Person,

is such that, if that Person and all of the entities referred to in this Section 1.2(j)(ii) that beneficially own securities of the entity were one Person, that Person would control the entity.

1.3 **Currency**

Unless otherwise stated, all references in this Agreement to sums of money are expressed in lawful money of Canada and all references to “dollars” or to “\$” refers to Canadian dollars.

1.4 **Accounting Matters**

Unless otherwise stated, all accounting terms used in this Agreement in respect of a Person shall have the meanings attributable thereto under IFRS and all determinations of an accounting nature required to be made shall be made in accordance with IFRS.

1.5 **Knowledge**

Where any representation or warranty is qualified by reference to the knowledge of the REIT, it is deemed to refer to the actual knowledge of the members of the Special Committee, without any investigation. Where any provision of this Agreement is qualified by reference to the knowledge of the Purchaser, it is deemed to refer to the actual knowledge of the executive officers of the Purchaser or the Cross Trustees plus the knowledge such Persons would have obtained after due and diligent inquiry of employees, officers and independent contractors of the Purchaser reasonably expected to have knowledge relevant to an applicable matter.

1.6 **Joint Ventures**

All terms of this Agreement which relate to a covenant or obligation in respect of, involving or applicable to a “Joint Venture” as an obligation of the REIT and/or the GP, as applicable, shall be read to be subject to the qualification that such covenant or obligation only applies to the extent that the REIT and/or the GP, as applicable, has the ability to directly cause such covenant or obligation to be complied with by the Joint Venture under Contracts outstanding as of the date hereof and, for greater certainty, neither the REIT nor the GP shall be, directly or indirectly, required to seek any amendments to, or waivers from, any such Contracts in respect of the Joint Ventures in connection with this Agreement or the transactions contemplated hereby.

1.7 **Capitalized Terms**

Unless otherwise defined therein, all capitalized terms used in any Schedule have the meanings ascribed to them in this Agreement.

1.8 **Statutes**

Unless stated otherwise, any reference to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may hereafter be amended or re-enacted.

1.9 **Computation of Time**

If any action may be taken within, or any right or obligation is to expire at the end of, a period of days under this Agreement, then the first day of the period is not counted, but the day of its expiry is counted. Whenever payments are to be made or an action is to be taken on a

day which is not a Business Day, such payment will be made, or such action will be taken on or not later than the next succeeding Business Day.

1.10 **Time References**

References to time are to local time, Edmonton, Alberta unless otherwise indicated.

1.11 **Schedules**

- (a) The schedules attached to this Agreement, as listed below form an integral part of this Agreement, for all purposes:

<u>Schedule</u>	<u>Description</u>
Schedule A	Plan of Arrangement
Schedule B	Arrangement Resolution
Schedule C	Representations and Warranties of the REIT
Schedule D	Representations and Warranties of the Purchaser
Schedule E	Regulatory Approvals
Schedule F	Loan Agreement

ARTICLE 2 THE ARRANGEMENT

2.1 **Arrangement**

The Parties agree that the Arrangement shall be implemented in accordance with and subject to the terms and conditions contained in this Agreement and the Plan of Arrangement.

2.2 **REIT Approval**

The REIT represents and warrants to the Purchaser that, as of the date of this Agreement, the Board (a) has received the Fairness Opinions and the Formal Valuation, and (b) upon the recommendation of the Special Committee and after receiving legal and financial advice, the Board has unanimously resolved (excluding any Cross Trustees or any other members of the Board who are conflicted) that (i) the Arrangement is in the best interest of the REIT and (ii) it will recommend that Unitholders vote in favour of the Arrangement Resolution((i) and (ii) collectively being, the "**Board Recommendation**") and (c) each of the trustees and executive officers of the REIT has advised the REIT that they intend to vote or cause to be voted all Units beneficially held, controlled or directed by them in favour of the Arrangement Resolution.

2.3 **Interim Order**

As soon as reasonably practicable after the date of this Agreement, but in any event in sufficient time to permit the Meeting to occur in accordance with Section 2.5, or such other date as the Purchaser and the REIT may agree, the REIT and the GP shall apply, in a manner acceptable to the Purchaser, acting reasonably, for the Interim Order pursuant to section

193(4) of the ABCA and, in co-operation with the Purchaser, prepare, file and diligently pursue an application for the Interim Order. The terms of the Interim Order shall provide, among other things:

- (a) for the classes of Persons to whom notice is to be provided in respect of the Arrangement and the Meeting and for the manner in which notice is to be provided;
- (b) for confirmation of the record date for purpose of determining the Unitholders and Special Voting Unitholders entitled to receive notice of, and vote at, the Meeting;
- (c) that the required level of approval for the Arrangement Resolution shall be: (i) 66 2/3% of the votes cast on the Arrangement Resolution by Unitholders and Special Voting Unitholders, voting as a single class, present in person or represented by proxy at the Meeting; and (ii) if, and to the extent, required under Securities Laws, a simple majority of the votes cast by Unitholders present in person or represented by proxy at the Meeting excluding the votes cast by Unitholders that are required to be excluded pursuant to items (a) through (d) of Section 8.1(1) of MI 61-101 for purposes of the Arrangement;
- (d) that, in all other respects, the terms, restrictions and conditions of the Declaration of Trust, including quorum requirements and all other matters, shall apply in respect of the Meeting, unless varied by the Interim Order;
- (e) for the notice requirements with respect to the presentation of the application to the Court for the Final Order;
- (f) that the Meeting may be adjourned or postponed from time to time by the REIT in accordance with the terms of this Agreement or as otherwise agreed to by the Parties and without the need for additional approval of the Court and without the necessity of first convening the Meeting or obtaining any vote of the Unitholders or Special Voting Unitholder and notice of any such adjournment(s) or postponement(s) shall be given by such means as the Board (excluding any Cross Trustees) may determine is appropriate in the circumstances;
- (g) that, except as required by applicable Law or the Court, the record date for the Unitholders and Special Voting Unitholders entitled to receive notice of and to vote at the Meeting will not change in respect of or as a consequence of any adjournment(s) or postponement(s) of the Meeting;
- (h) for the grant of Dissent Rights to those Unitholders who are registered Unitholders as contemplated in the Plan of Arrangement;
- (i) for such other matters either Party may reasonably require, subject to obtaining the prior consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed; and
- (j) that the Meeting may be convened in person or entirely or partially by telephonic or electronic communication facility or such other communication facility as may be permitted by or necessary to comply with Law.

2.4 **The Circular**

- (a) As soon as is reasonably practicable after the date of this Agreement, the REIT shall prepare and complete, in consultation with the Purchaser, the Circular

together with any other documents required by Law in connection with the Meeting, and the REIT shall, as promptly as reasonably practicable after obtaining the Interim Order, cause the Circular and such other documents to be filed in all jurisdictions where the same is required and sent to each Unitholder and Special Voting Unitholder and other Persons as required by the Interim Order and Law, in each case using all commercially reasonable efforts so as to permit the Meeting to be held as soon as practicable and, in any event, by the date specified in Section 2.5(a). Without limiting the generality of the foregoing, the REIT shall, if so requested and in consultation with the Purchaser, acting reasonably, use all commercially reasonable efforts to abridge the timing contemplated by National Instrument 54-101 - *Communication with Beneficial Owners of Securities of a Reporting Issuer*, as provided in section 2.20 thereof (it being agreed that under no circumstances shall the REIT be required to make an application for a waiver or exemption from such National Instrument).

- (b) The REIT shall ensure that the Circular complies in all material respects with Law (including National Instrument 51-102 – *Continuous Disclosure Obligations* and MI 61-101) and, without limiting the generality of the foregoing, that the Circular does not contain any misrepresentation (other than with respect to any information that is provided in writing by or on behalf of the Purchaser or its Representatives for inclusion in the Circular). The REIT shall provide Unitholders and Special Voting Unitholders with sufficient information, in sufficient detail, to permit Unitholders to form a reasoned judgement concerning the matters to be placed before the Meeting. Without limiting the generality of the foregoing, the Circular must include:
 - (i) a summary and copy of the Fairness Opinions and the Formal Valuation;
 - (ii) a statement that the Special Committee has unanimously recommended that the Board approve the Arrangement Agreement and recommend to Unitholders that they vote their Units in favour of the Arrangement Resolution,
 - (iii) a statement that the Board and/or the Special Committee, as applicable, has received the Fairness Opinions and the Formal Valuation, and that the Board (excluding any trustees thereof who are conflicted including the Cross Trustees), after receiving legal and financial advice and the recommendation of the Special Committee, made the Board Recommendation; and
 - (iv) a statement that each trustee and executive officer of the REIT has indicated to the REIT they intend to vote their Units (if any) in favour of the Arrangement Resolution, subject to the other terms of this Agreement.
- (c) During the course of its preparation, the REIT shall provide the Purchaser and its legal counsel with reasonable opportunity to review and comment on drafts of the Circular and other related documents, and the REIT shall give reasonable consideration to all comments made by the Purchaser and its legal counsel. All information in the Circular relating to the Purchaser shall be in form and substance satisfactory to the Purchaser, acting reasonably. The REIT shall provide the Purchaser with a substantially final copy of the Circular prior to mailing to the Unitholders and Special Voting Unitholders.

- (d) The Purchaser shall promptly provide in writing to the REIT all necessary information concerning the Purchaser and its Affiliates that is required by Law to be included by the REIT in the Circular or other related documents and shall ensure that such information does not contain any misrepresentation concerning the Purchaser and its Affiliates.
- (e) The Purchaser hereby agrees to indemnify and save harmless the REIT and its Subsidiaries and their respective Representatives from and against any and all liabilities, claims, demands, losses, costs, damages and expenses to which the REIT and its Subsidiaries or any of their respective Representatives may be subject or may suffer as a result of, or arising from, any misrepresentation contained in any written information included in the Circular that was provided in writing by or on behalf of the Purchaser or its Representatives for inclusion in the Circular concerning the Purchaser, including as a result of any order made, or any inquiry, investigation or proceeding instituted by any Regulatory Authority based on such a misrepresentation.
- (f) Each Party shall promptly notify the other Party if at any time before the Meeting it becomes aware that the Circular contains a misrepresentation, or otherwise requires an amendment or supplement. The Parties shall co-operate in the preparation of any amendment or supplement to the Circular, as required or appropriate, and the REIT shall promptly mail, file or otherwise publicly disseminate any such amendment or supplement to Unitholders and Special Voting Unitholders and, if required by the Court or by Law, file the same with any other Regulatory Authority.

2.5 **The Meeting**

The REIT shall:

- (a) subject to the receipt of the Interim Order and the terms of this Agreement, applicable Law and the Interim Order and provided that this Agreement has not been terminated in accordance with its terms, convene and conduct the Meeting in accordance with the Interim Order, the Declaration of Trust and Law as soon as reasonably possible, but in any event on or before November 29, 2024 (or such later date as may be consented to by the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed), for the purpose of considering the Arrangement Resolution and for such other matters as the REIT (with the prior consent of the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed) may reasonably require, and not adjourn, postpone or cancel (or propose the adjournment, postponement or cancellation of) the Meeting without the prior consent of the Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), except:
 - (i) in the case of an adjournment, as required for quorum purposes;
 - (ii) as required or permitted under Section 6.5(e);
 - (iii) for an adjournment for the purpose of attempting to obtain REIT Unitholder Approval; or
 - (iv) as required by Law or a Regulatory Authority.

- (b) notwithstanding the receipt by the REIT of a Superior Proposal in accordance with Section 6.5(a), a Change in Recommendation or any other intervening event and provided that this Agreement has not been terminated in accordance with its terms, unless otherwise agreed in writing by the Purchaser, take all commercially reasonable steps to hold the Meeting and to cause the Arrangement Resolution to be voted on at the Meeting and shall not propose to adjourn or postpone the Meeting other than as contemplated by Section 2.5(a);
- (c) subject to the terms of this Agreement, other than following a Change in Recommendation, use commercially reasonable efforts to solicit proxies in favour of the REIT Unitholder Approval and against any resolution submitted by any Unitholder that is inconsistent with the Arrangement Resolution and the completion of any of the transactions contemplated by this Agreement, including, at the REIT's discretion, or if so requested by the Purchaser and at the Purchaser's expense, engaging the services of one or more proxy solicitation services firms to solicit proxies in favour of the Arrangement Resolution;
- (d) at the reasonable request of the Purchaser from time to time, promptly provide the Purchaser with a list (in both written and electronic form) of: (i) the registered Unitholders, together with their addresses and respective holdings of Units; (ii) the names and addresses (to the extent in the REIT's possession or otherwise reasonably obtainable by the REIT) and holdings of all Persons having rights issued by the REIT to acquire Units; and (iii) participants in book-based systems and non-objecting beneficial owners of Units, together with their addresses and respective holdings of Units. The REIT shall from time to time require that its registrar and transfer agent furnish the Purchaser with such additional information, including updated or additional lists of Unitholders and lists of holdings and other assistance as the Purchaser may reasonably request;
- (e) consult with the Purchaser in fixing the record date and meeting date for the Meeting, give notice to the Purchaser of the Meeting and allow the Representatives of the Purchaser to attend the Meeting;
- (f) promptly advise the Purchaser, at such times as the Purchaser may reasonably request and at least on a daily basis on each of the last ten (10) Business Days prior to the date of the Meeting, as to the aggregate tally of the proxies (for greater certainty, specifying votes "for" and votes "against" the Arrangement Resolution) received by the REIT in respect of the Arrangement Resolution;
- (g) promptly advise the Purchaser of any communication (written or oral) from any Person in opposition to the Arrangement (other than communications considered by the REIT, acting reasonably, to be non-substantive) or any written notice of dissent or purported exercise by any Unitholder of Dissent Rights received by the REIT in relation to the Arrangement Resolution and any withdrawal of Dissent Rights received by the REIT and, subject to Laws, any written communications sent by or on behalf of the REIT to any Unitholder exercising or purporting to exercise Dissent Rights in relation to the Arrangement Resolution;
- (h) not make any payment or settlement offer, or agree to any payment or settlement, prior to the Effective Time with respect to Dissent Rights without the prior consent of the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed; and

- (i) not, without the Purchaser's prior written consent, change the record date for determining the Unitholders and Special Voting Unitholders entitled to vote at the Meeting in connection with any adjournment or postponement of the Meeting unless required by Law.

2.6 **Final Order**

If the Interim Order is obtained and the Arrangement Resolution is passed at the Meeting as provided for in the Interim Order, the REIT and the GP shall, subject to the terms of this Agreement, take all steps necessary or advisable to submit the Arrangement to the Court and diligently pursue an application for the Final Order pursuant to section 193(4) of the ABCA, as soon as reasonably practicable and in any event no later than five (5) Business Days after the receipt of the REIT Unitholder Approval at the Meeting.

2.7 **Court Proceedings**

Subject to the terms of this Agreement, the Purchaser shall cooperate with, assist and consent to the REIT and the GP seeking the Interim Order and the Final Order, including by providing to the REIT and the GP, on a timely basis, any information reasonably required by Law to be supplied by the Purchaser in connection therewith. In connection with all Court proceedings relating to obtaining the Interim Order and the Final Order, the REIT and the GP shall, subject to the terms of this Agreement:

- (a) diligently pursue, and the Purchaser, the REIT and the GP will cooperate with each other in diligently pursuing, the Interim Order and the Final Order;
- (b) provide the Purchaser and its legal counsel with a reasonable opportunity to review and comment upon drafts of all material to be filed with, or submitted to, the Court or the Registrar in connection with the Arrangement, and shall reasonably consider all reasonable comments made by the Purchaser and its legal counsel;
- (c) provide to the Purchaser, on a timely basis, with copies of any notice of appearance, evidence or other Court documents served on the REIT, the GP or their legal counsel in respect of the application for the Interim Order or the Final Order or any appeal from them, and any written notice received by the REIT or the GP indicating the intention of any Person to appeal, or oppose the granting of, the Interim Order or the Final Order;
- (d) subject to Law, not file any material with the Court in connection with the Arrangement or serve any such material, or agree to modify or amend materials so filed or served, except as contemplated hereby or with the Purchaser's prior consent, such consent not to be unreasonably withheld, conditioned or delayed; provided that nothing herein shall require the Purchaser to agree or consent to any increase in Consideration or other modification or amendment to such filed or served materials that expands or increases the Purchaser's, obligations set forth in any such filed or served materials or under this Agreement;
- (e) ensure that all materials filed with the Court in connection with the Arrangement are consistent in all material respects with the terms of this Agreement and the Plan of Arrangement;
- (f) not unreasonably object to the Purchaser's legal counsel making such submissions on the hearing of the motion for the Interim Order and the application

for the Final Order as such counsel considers appropriate, provided that the REIT is advised by the Purchaser of the nature of any submissions with reasonably sufficient time prior to the hearing and agrees with them, acting reasonably, and such submissions are consistent in all material respects with this Agreement and the Plan of Arrangement; and

- (g) use commercially reasonable efforts to oppose any proposal from any Person that the Final Order contain any provision inconsistent with this Agreement, and, if at any time after the issuance of the Final Order and prior to the Effective Date, the REIT and/or the GP are required by the terms of the Final Order or by Law to return to Court with respect to the Final Order, each shall do so after notice to, and in consultation and co-operation with, the Purchaser.

2.8 **Articles of Arrangement and Effective Date**

The Articles of Arrangement shall implement the Plan of Arrangement. The Articles of Arrangement shall include the form of the Plan of Arrangement. Unless another time or date is agreed to in writing by the Parties, the Articles of Arrangement shall be filed by the REIT and the GP with the Registrar:

- (a) on the Redemption Date provided that by such date all the conditions set forth in Article 5 (excluding conditions that, by their terms, are only capable of being satisfied as of the Effective Time) have been satisfied, or where not prohibited, waived (by the applicable Party in whose favour the condition is); or
- (b) if such conditions are not satisfied and the Articles of Arrangement are not filed on the Redemption Date, the Articles of Arrangement shall be filed no later than the fifth (5th) Business Day after the satisfaction or, where not prohibited, the waiver (by the applicable Party in whose favour the condition is) of the conditions set forth in Article 5, excluding conditions that, by their terms, are only capable of being satisfied as of the Effective Time,

provided that the REIT and the GP shall not be required to file the Articles of Arrangement with the Registrar unless the REIT and the GP have received written confirmation from the Depository that it has received the Consideration and, if the Articles of Arrangement are to be filed on the Redemption Date, the Debenture Repayment Amount. From and after the Effective Time, the Plan of Arrangement will have all of the effects provided by Law, including the ABCA. The closing of the Arrangement and the transactions contemplated by this Agreement will take place via electronic document exchange at the offices of legal counsel to the Purchaser and legal counsel to the Special Committee or at such other time and place as may be agreed to by the Parties.

2.9 **Withholding Taxes**

The Purchaser, the REIT and the Depository shall be entitled to deduct and withhold, or direct any other Person to deduct and withhold on their behalf, from any Consideration or other payments payable, issuable or otherwise deliverable to any Person hereunder or under the Plan of Arrangement such amounts as the Purchaser, the REIT or the Depository may be entitled, or required or reasonably believe to be required to deduct and withhold therefrom under any provision of any Laws or the interpretation or administration thereof in respect of Taxes. To the extent that a Party becomes aware that any such Consideration or other payment may be subject to withholding Taxes, it shall promptly notify the other Parties and the Parties shall cooperate in good faith to minimize or eliminate the amount of such withholding Taxes in

accordance with applicable Law. To the extent that such amounts are so deducted, withheld and remitted to the relevant Regulatory Authority, such amounts shall be treated for all purposes under this Agreement and the Plan of Arrangement as having been paid to the Person to whom such amounts would otherwise have been paid, provided such amounts are timely remitted to the applicable taxing authority.

2.10 **Payments**

The Purchaser shall, following receipt of the Final Order and at least two (2) Business Days prior to filing by the REIT and the GP of the Articles of Arrangement with the Registrar, transfer or cause to be transferred to the Depositary the Consideration. The Depositary shall hold the Consideration in escrow (the terms and conditions of such escrow to be satisfactory to the REIT and the Purchaser, each acting reasonably).

2.11 **Transfer Taxes**

The Purchaser shall pay all transfer Taxes (if any) payable in connection with the transactions contemplated under this Agreement, the Arrangement and any Pre-Arrangement Reorganization.

2.12 **Mutual Agreements**

The Parties agree that neither the execution of this Agreement by any Party hereto, nor the performance by any Party of the obligations contemplated hereby, will result in a breach, or any penalty or payment obligation, by any Party or any Affiliate thereof of any of the agreements, as described on page 33 of the Annual Information Form of the REIT dated March 5, 2024 for the financial year ended December 31, 2024, between or among the REIT, GP, the Purchaser or the Limited Partnership, or any Affiliate of any of the foregoing, and in the event any breach would occur, or penalty or payment would otherwise be or become due or payable, any such breach, penalty or payment obligation is hereby waived by the Parties, on their own behalf and on behalf of any Affiliate thereof, as applicable.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 **Representations and Warranties of the REIT**

- (a) Except as set forth in the REIT Public Documents as of the date hereof and subject to Section 3.1(c), the REIT represents and warrants to the Purchaser as set forth in Schedule C and acknowledges and agrees that the Purchaser is relying upon such representations and warranties in connection with the entering into of this Agreement and the consummation of the Arrangement and the other transactions contemplated by this Agreement.
- (b) The Purchaser agrees and acknowledges that, except for the representations and warranties of the REIT set forth in Schedule C neither the REIT, nor any other Person has made, or makes any other, express or implied representation and warranty, either written or oral, on behalf of the REIT.
- (c) Notwithstanding any other provision of this Agreement, the Purchaser acknowledges that, in one or more of its Capacities, the Purchaser has managed the business and affairs of, or otherwise had control or direction of, the REIT and its Subsidiaries since May 1, 2013 and, as such, has a detailed understanding of

the business, operations, assets and liabilities of the REIT and its Subsidiaries. Consequently, the Purchaser shall not be entitled to rely on, assert as a breach, or take any action otherwise permitted under this Agreement or any other agreement in connection with any inaccuracy or breach of any representation or warranty of the REIT or the GP contained herein or therein, as applicable, if, as of the date of this Agreement, the Purchaser had knowledge of the inaccuracy or breach of such representation or warranty. Moreover, the Purchaser confirms, as at the date hereof, to its knowledge, no facts or circumstances exist that would cause or would reasonably be expected to cause any Party to be unable to satisfy its obligations set forth in this Agreement in accordance with its terms.

- (d) The representations and warranties of the REIT contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

3.2 **Representations and Warranties of the Purchaser**

- (a) The Purchaser represents and warrants to the REIT and the GP as set forth in Schedule D and acknowledges and agrees that each of the REIT and the GP is relying upon such representations and warranties in connection with the entering into of this Agreement and the consummation of the Arrangement and the other transactions contemplated by this Agreement.
- (b) Except for the representations and warranties of the Purchaser as set forth in Schedule D neither the Purchaser, nor any other Person has made, or makes any other, express or implied representation and warranty, either written or oral, on behalf of the Purchaser.
- (c) The representations and warranties of the Purchaser contained in this Agreement shall not survive the completion of the Arrangement and shall expire and be terminated on the earlier of the Effective Time and the date on which this Agreement is terminated in accordance with its terms.

ARTICLE 4 COVENANTS

4.1 **Conduct of Business of the REIT**

- (a) Until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, except (i) with the prior written consent of the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed, (ii) as required or permitted by this Agreement, (iii) as a direct or indirect consequence of any approval by, or action taken (or omitted to be taken) by the Purchaser (excluding a Permitted Action), in any of its Capacities, or its Representatives, or (iv) as is reasonably responsive to a requirement of applicable Law, the REIT shall, and shall, to the extent it has the ability to do so, cause the Limited Partnership to (A) conduct its business in the Ordinary Course and in accordance with applicable Law in all material respects, and (B) to the extent consistent with the foregoing, preserve intact the current business organization of the REIT and its Subsidiaries and, to the extent it has the ability to do so, the Joint Ventures, provided however, that, in each case, no action taken by the REIT or its Subsidiaries and Joint Ventures with regard to matters specifically addressed by

Section 4.2(b) shall constitute a breach of this Section 4.1(a) unless it would also be a breach of Section 4.2(b).

- (b) Without limiting the generality of Section 4.1(a), until the earlier of the Effective Time and the time that this Agreement is terminated in accordance with its terms, except (i) with the prior written consent of the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed; (ii) as required, permitted or contemplated by this Agreement and/or the Plan of Arrangement; (iii) as a direct or indirect consequence of any approval by, or action taken (or omitted to be taken) by the Purchaser (excluding a Permitted Action), in any of its Capacities, or its Representatives, or (iv) as required by Law, the REIT shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:
- (1) amend its Constating Documents;
 - (2) reduce the stated capital, split, combine or reclassify any outstanding securities, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) or amend the terms of any of its securities in any material manner, except for: (A) any dividend or distribution from a Joint Ventures or Subsidiary to another Subsidiary or from a Subsidiary to the REIT; or (B) a distribution of the REIT's taxable income payable by issuance of Units which are immediately consolidated so that the number of Units following such distribution is no greater than the number of Units prior to such distribution;
 - (3) redeem, repurchase or otherwise offer to redeem, repurchase or otherwise acquire any securities;
 - (4) issue, grant, sell, pledge, award or deliver or authorize the issuance, grant, sale, pledge, award, delivery or create any derivative interest (in each case, other than Permitted Liens) in any Units, shares of its capital stock or other equity or voting interests or any options, warrants or similar rights exercisable or exchangeable for or convertible into or otherwise evidencing a right to acquire such securities or other equity or voting interests, or any stock appreciation rights, phantom stock awards or other rights that are linked to the price or the value of the Units other than in connection with the issuance of Units upon the conversion of the Debentures by the holders thereof or pursuant to a distribution referred to in Section 4.1(b)(2)(B);
 - (5) reorganize, amalgamate or merge by plan of arrangement or otherwise with any other Person or incorporate any Subsidiary other than in connection with the Arrangement;
 - (6) adopt a plan of liquidation or resolution providing for the liquidation or dissolution of the REIT or any of its Subsidiaries and Joint Ventures;
 - (7) enter into or resolve to enter into any agreement that has the effect of creating a joint venture, partnership, shareholders' agreement or similar relationship;
 - (8) acquire or agree to acquire (by merger, amalgamation, plan of arrangement, acquisition of shares or assets or otherwise), in one transaction or a series of transactions, any Person, business or enterprise

or make any investment either by purchase of shares or securities, contributions of capital (other than to an existing Subsidiary or Joint Venture of the REIT), property transfer or purchase of any property or assets of any other Person outside of the Ordinary Course;

- (9) except for assets currently subject to sales Contracts or as otherwise contemplated by the REIT's budget, transfer, pledge, lease, dispose of, or grant any Encumbrance (other than Permitted Liens) on, any of the assets of the REIT or its having a fair market value equal to or in excess of \$250,000 in the aggregate, other than sales of inventory and accounts receivable in the Ordinary Course and transfers, leases, or dispositions between or among the REIT and its Subsidiaries and Joint Ventures;
- (10) commence, cancel, waive, release, assign, settle or compromise any claim (other than insured claims), Action or proceeding before a Regulatory Authority (A) relating to the REIT, or its Subsidiaries resulting in payments by the REIT or its Subsidiaries and Joint Ventures in excess of an aggregate amount of \$250,000 or which would reasonably be expected to impede, prevent or materially delay the consummation of the transactions contemplated by this Agreement, or (B) brought by any present, former or purported holder of securities of the REIT or its Subsidiaries and Joint Ventures in connection with the transactions contemplated by this Agreement or the Plan of Arrangement;
- (11) except in connection with the sale of assets subject to sales Contracts as of the date hereof, pursuant to mortgage renewals or refinancing transactions in the Ordinary Course or otherwise contemplated by this Agreement, in connection with hedging transactions in the Ordinary Course, in connection with monthly credit facility renewals in the Ordinary Course, or as is otherwise contemplated by the REIT's budget, prepay any long-term indebtedness before its scheduled maturity, other than the payment of the Debenture Repayment Amount and accrued but unpaid interest on the redemption of the Debentures, or increase, create, incur, assume or otherwise become liable for any indebtedness for borrowed money or guarantees thereof, other than indebtedness owing by one Subsidiary of the REIT to the REIT or another Subsidiary or of the REIT to any Subsidiary or Joint Venture of the REIT or otherwise in connection with the Loan Agreement;
- (12) make any loan or advance to, or any capital contribution or investment in, or assume, guarantee or otherwise become liable with respect to the liabilities or obligations of, any Person, other than (A) the REIT or a Subsidiary or Joint Venture of the REIT, (B) accounts payable to trade creditors arising in the Ordinary Course, (C) accrued liabilities in the Ordinary Course, (D) any capital expenditures currently contemplated in the REIT's existing budget, (E) in connection with the Loan Agreement, or (F) in connection with mortgage renewals or refinancing transactions in the Ordinary Course or otherwise contemplated by this Agreement, or (G) in connection with monthly credit facility renewals in the Ordinary Course;
- (13) except in connection with monthly credit facility renewals or hedging transactions in the Ordinary Course, enter into any interest rate, currency,

equity or commodity swaps, hedges, derivatives, forward sales contracts or other similar financial instruments other than in the Ordinary Course;

- (14) take any action or fail to take any action which action or failure to act would result in material loss, expiration or surrender of, or the loss of any material benefit under, or would reasonably be expected to cause any Regulatory Authorities to institute proceedings for the suspension of, or the revocation or limitation of rights under, any material Authorizations necessary to conduct its businesses as now conducted;
- (15) grant any general increase in the rate of wages, salaries, bonuses or other remuneration of trustees, directors or officers other than in the Ordinary Course of business;
- (16) grant any rights of indemnification, retention, severance, change of control, bonus or termination pay to, or enter into any employment agreement, indemnity agreement, deferred compensation or bonus compensation agreement (or amend such existing agreement) with, any trustee, director or executive officer;
- (17) make a material change in the REIT's methods of accounting, except as required by changes in IFRS or pursuant to written instructions, comments or orders of a Regulatory Authority;
- (18) amend or modify in any material respect, or terminate or waive any material right under any Material Contract, or enter into any Contract that would be a Material Contract if in effect on the date hereof, or fail to exercise commercially reasonable efforts to enforce any material breach of any Material Contract of which it becomes aware, or materially breach, materially violate or be in material default under any Material Contract;
- (19) pay, discharge or satisfy any liability or obligation in excess of \$250,000 (other than the Debentures) before the same become due in accordance with their terms;
- (20) make, amend or rescind any material express or deemed Tax election, settle or compromise any material Tax claim, action, litigation, proceeding, arbitration, investigation, audit, controversy, assessment, reassessment or liability, amend any Tax Return in any material respect, surrender any right to claim a material Tax abatement, reduction, deduction, exemption, credit or refund, consent to the extension or waiver of the limitation period applicable to any material Tax matter, or materially amend or change any of its methods of reporting income, deductions or accounting for income Tax purposes;
- (21) make a request for a Tax ruling or enter into any material agreement with a Regulatory Authority with respect to Taxes;
- (22) except as contemplated in Section 4.8 and except for scheduled renewals in the Ordinary Course, amend, modify or terminate any material insurance (or re-insurance) policy of the REIT or its Subsidiaries in effect on the date of this Agreement, unless simultaneously with any such termination, replacement policies underwritten by insurance and re-insurance

companies of nationally recognized standing providing coverage equal to or greater than the coverage under the terminated policy for substantially similar premium are in full force and effect;

- (23) enter into any agreement or arrangement that would, after the Effective Time, limit or restrict in any material respect the REIT or its Subsidiaries and Joint Ventures from competing or carrying on any business in any manner;
- (24) waive, release or assign any material rights, claims or benefits of the REIT or any of its Subsidiaries and Joint Ventures; or
- (25) authorize, agree, resolve or otherwise commit to do any of the foregoing.

4.2 **Covenants of the REIT Relating to the Arrangement**

- (a) Subject to the terms and conditions of this Agreement, the REIT shall and shall cause its Subsidiaries, as applicable, to use commercially reasonable efforts to perform all obligations required to be performed by the REIT or any of its Subsidiaries under this Agreement, co-operate with the Purchaser in connection therewith, and do all such other commercially reasonable acts and things as may be necessary in order to consummate and make effective as soon as reasonably practicable, the Arrangement and the transactions contemplated by this Agreement and, without limiting the generality of the foregoing, the REIT shall and, where appropriate, shall cause its Subsidiaries as applicable, to:
 - (i) as soon as practicable following execution of this Agreement, use commercially reasonable efforts to provide all required notifications and use commercially reasonable efforts to obtain and maintain all third party consents, waivers or approvals required to be provided or obtained under any Material Contract in connection with the Arrangement in order to maintain such Material Contracts in full force and effect following completion of the Arrangement;
 - (ii) except as provided in Section 4.4 in respect of the Regulatory Approvals, use commercially reasonable efforts to effect all filings and submissions of information required by Regulatory Authorities from it or any of its Subsidiaries and Joint Ventures and use commercially reasonable efforts to effect all necessary registrations relating to the Arrangement or the transactions contemplated by this Agreement and, in doing so, keep the Purchaser informed as to the status of the proceedings related thereto, including providing the Purchaser with copies of all related materials, in draft form (but only to the extent permitted by Laws), in order for the Purchaser to provide its comments thereon, which shall be given consideration;
 - (iii) except as provided in Section 4.4 in respect of the Regulatory Approvals, use commercially reasonable efforts to oppose, lift or rescind any injunction, restraining or other order, decree, judgment or ruling seeking to restrain, enjoin or otherwise prohibit or materially adversely affect the consummation of the Arrangement or the transactions contemplated by this Agreement and defend, or cause to be defended, any proceedings to which it or any of its Subsidiaries is a party or brought against it or any of its

Subsidiaries or any of their directors or officers challenging this Agreement, the Arrangement or the transactions contemplated by this Agreement and, in doing so, keep the Purchaser informed as to the status of the proceedings related to thereto, including providing the Purchaser with copies of all related materials, in draft form (but only to the extent permitted by Laws), in order for the Purchaser to provide its comments thereon, which shall be given consideration;

- (iv) not take any action, or refrain from taking any action, which is inconsistent with this Agreement, or which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Arrangement or the transactions contemplated by this Agreement, other than as permitted under this Agreement;
 - (v) other than in connection with obtaining Regulatory Approvals which shall be governed by Section 4.4, use commercially reasonable efforts to satisfy all conditions precedent set forth in Section 5.1 and Section 5.2 and carry out the terms of the Interim Order and Final Order applicable to it and comply promptly with all requirements imposed by Law on it or any of its Subsidiaries with respect to this Agreement, the Arrangement and the transactions contemplated by this Agreement; and
 - (vi) use commercially reasonable efforts to obtain and deliver to the Purchaser at the Effective Time, duly executed and legally binding resignations of each director of the GP.
- (b) The REIT shall promptly notify the Purchaser of:
- (i) any Material Adverse Effect;
 - (ii) unless prohibited by Law, any notice or other communication from any Person received by the REIT or any of its Subsidiaries alleging (A) that the consent, waiver or approval of such Person is required in connection with this Agreement, the Arrangement or the transactions contemplated by this Agreement, (B) such Person is terminating or otherwise materially adversely modifying a Material Contract as a result of this Agreement or the Arrangement, or alleging that the transactions contemplated by this Agreement would result in a breach of such Material Contract, or (C) such Person is terminating or otherwise materially adversely modifying any material relationship with any of the REIT or any of its Subsidiaries and Joint Ventures as a result of this Agreement, the Arrangement or the transactions contemplated by this Agreement;
 - (iii) unless prohibited by Law, any notice or other communication from any Regulatory Authority in connection with this Agreement (and, subject to Law, the REIT shall promptly provide a copy of any such written notice or communication to the Purchaser); and
 - (iv) any Actions commenced or, to the knowledge of the members of the Special Committee, threatened against any of the REIT or any of its Subsidiaries and Joint Ventures or affecting their assets that relate to this Agreement, the Arrangement or the transactions contemplated by this Agreement, in each case to the extent that such Action would reasonably

be expected to impair, impede, materially delay or prevent the REIT and the GP from performing their respective obligations under this Agreement.

For purposes of this Section 4.2(b), where the REIT is required to notify the Purchaser, notification shall be deemed to have been made if the Designated Cross Trustee has knowledge of the information that would otherwise have been required to be contained in the notice delivered to the Purchaser.

- (c) The Purchaser's receipt of information pursuant to Section 4.2(b) after the date of this Agreement shall not operate as a waiver (including with respect to Article 5) or otherwise diminish the scope of, or otherwise affect any representation, warranty or covenant made by the REIT, or condition in favour of the Purchaser, in this Agreement.

4.3 **Covenants of the Purchaser Relating to the Arrangement**

- (a) Subject to the terms and conditions of this Agreement, the Purchaser shall use commercially reasonable efforts to perform all obligations required to be performed by it under this Agreement, cooperate with the REIT and the GP in connection therewith, including such actions as may be necessary for the Purchaser, in any of its Capacities, to facilitate the REIT in complying with its obligations under this Agreement, and do all such other acts and things as may be necessary in order to consummate and make effective as soon as reasonably practicable, the Arrangement and the transactions contemplated by this Agreement and, without limiting the generality of the foregoing, the Purchaser shall:
 - (i) immediately upon receipt of an invoice, pay an amount to the REIT, or as the REIT may otherwise direct in writing, equal to the fee payable by the REIT to the Special Committee's financial advisor in connection with the Formal Valuation, together with all expenses and applicable taxes owing in connection therewith;
 - (ii) except as provided in Section 4.4 in respect of the Regulatory Approvals, use commercially reasonable efforts to effect all filings and submissions of information required by Regulatory Authorities and use commercially reasonable efforts to effect all necessary registrations relating to the Arrangement or the transactions contemplated by this Agreement and, in doing so, keep the REIT informed as to the status of the proceedings related thereto, including providing the REIT with copies of all related materials, in draft form (but only to the extent permitted by Laws), in order for the REIT to provide its comments thereon, which shall be given consideration;
 - (iii) except as provided in Section 4.4 in respect of the Regulatory Approvals, use commercially reasonable efforts to oppose, lift or rescind any injunction, restraining or other order, decree, judgment or ruling seeking to restrain, enjoin or otherwise prohibit or adversely affect the consummation of the Arrangement or the transactions contemplated by this Agreement and defend, or cause to be defended, any proceedings to which it is a party or brought against it or any of its directors or officers challenging this Agreement, the Arrangement or the transactions contemplated by this Agreement and, in doing so, keep the REIT informed as to the status of the proceedings related to thereto, including providing the REIT with copies of

all related materials, in draft form (but only to the extent permitted by Laws), in order for the REIT to provide its comments thereon, which shall be given consideration;

- (iv) other than a Permitted Action, not take any action, or refrain from taking any action, which is inconsistent with this Agreement or which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the Arrangement or the transactions contemplated by this Agreement (including the satisfaction of any condition set forth in Article 5 or any Regulatory Approval);
- (v) not transfer or convert any Special Voting Units or Class B LP Units of the Limited Partnership held, directly or indirectly, by the Purchaser or over which the Purchaser exercises control or direction, into Units at any time at or prior to the Effective Time;
- (vi) other than in connection with obtaining any Regulatory Approvals which shall be governed under Section 4.4, use commercially reasonable efforts to satisfy all conditions precedent set forth in Section 5.1 and Section 5.3 and carry out the terms of the Interim Order and Final Order applicable to it and comply promptly with all requirements imposed by Law on it with respect to this Agreement, the Arrangement or the transactions contemplated by this Agreement;
- (vii) take all necessary action to ensure that it has sufficient funds to carry out its obligations under this Agreement and the Plan of Arrangement and it shall at least two (2) Business Days prior to the day of filing by the REIT and the GP of the Articles of Arrangement with the Registrar in accordance with the terms of this Agreement, provide, transfer or cause to be transferred to the Depositary the Consideration to be held in escrow (the terms and conditions of such escrow to be satisfactory to the REIT and the Purchaser, each acting reasonably);
- (viii) use commercially reasonable efforts to, in any of its Capacities, assist the REIT and its Subsidiaries and Joint Ventures in obtaining all consents, waivers, permits, exemptions, orders, approvals, agreements, amendments or confirmations that are required by Sections 4.2(a)(i), 4.2(a)(ii) and 4.2(a)(iii);
- (ix) not, nor cause its Representatives or (to the extent it has the ability to do so) its Affiliates or permit its Representatives or (to the extent it has the ability to do so) its Affiliates to, take, or omit to take, any action (excluding a Permitted Action), directly or indirectly, in any Capacity, which would, or would reasonably be expected to, cause any breach or non-compliance by the REIT or the GP, whether directly or through any of its Subsidiaries or any Joint Venture, with any term, covenant, representation or warranty of such party in this Agreement or any other agreement.
- (x) at the Meeting (including in connection with any separate vote of any sub-group of securityholders of the REIT that may be required to be held and of which sub-group the Purchaser forms part) or at any adjournment or postponement thereof or in any other circumstances upon which a vote, consent or other approval (including by written consent in lieu of a meeting)

of the Unitholders and Special Voting Unitholders with respect to the Arrangement Resolution (or any other matter necessary to complete the transactions contemplated by this Agreement) is sought, the Purchaser shall cause all of the equity and voting securities of the REIT held by it, or over which it exercises control or direction, to be counted as present for purposes of establishing quorum and shall vote (or cause to be voted) all of such equity and voting securities of the REIT (i) in favour of the approval of the Arrangement Resolution, and (ii) in favour of any other matter necessary for the consummation of transactions contemplated by this Agreement;

- (xi) the Purchaser shall not exercise, or cause or encourage any Person to exercise, any rights of appraisal or rights of dissent provided under any Laws, pursuant to the Interim Order, the Plan of Arrangement or otherwise in connection with the Arrangement or the transactions contemplated by this Agreement considered at the Meeting in connection therewith; and
 - (xii) comply with its obligations under and subject to the terms of the Loan Agreement.
- (b) Other than in connection with obtaining any Regulatory Approvals which shall be governed under Section 4.4, the Purchaser shall promptly notify the REIT of:
- (i) any notice or other communication from any Person alleging that the consent, waiver or approval of such Person (or another Person) is required in connection with this Agreement, the Arrangement or the transactions contemplated by this Agreement;
 - (ii) unless prohibited by Law, any notice or other communication from any Regulatory Authority in connection with this Agreement (and, subject to Law, the Purchaser shall promptly provide a copy of any such written notice or communication to the REIT); and
 - (iii) any Actions commenced or, to the knowledge of the Purchaser, threatened against the Purchaser or affecting this Agreement or the Arrangement, in each case to the extent that such notice, communication, action, suit, arbitration or proceeding would reasonably be expected to impair, impede, materially delay or prevent any Party from performing its obligations under this Agreement.
- (c) The REIT's receipt of information pursuant to Section 4.3(b) or otherwise shall not operate as a waiver (including with respect to Article 5) or otherwise diminish the scope of, or otherwise affect any representation, warranty or covenant made by the Purchaser, or condition in favour of the REIT and/or the GP, in this Agreement.
- (d) For clarity, neither the REIT nor the GP shall be considered to be in breach of, nor shall the Purchaser be entitled to assert as a breach of, any covenant or other provision of this Agreement, if such alleged breach arose as a direct or indirect result of a breach of the Purchaser of section 4.3(a)(ix).

4.4 **Regulatory Approvals**

- (a) Without limiting the generality of the foregoing, with respect to the Regulatory Approvals, each of the Purchaser and the REIT shall and shall cause (to the extent it has authority or the ability to do so) their respective Subsidiaries or Affiliates, as applicable, to do the following:
 - (i) cooperate in obtaining the Regulatory Approvals including by (A) promptly furnishing to the other Parties such information and assistance as may reasonably be requested in order to prepare any notification, application, filing or request in connection with the Regulatory Approvals, (B) consulting with, and considering in good faith, any suggestions or comments made by the other Parties with respect to the documentation relating to the Regulatory Approvals process, (C) providing or submitting on a timely basis, and as promptly as practicable, all documentation and information that is required or advisable and relating to the Regulatory Approvals process, and (D) cooperating in the preparation and submission of all applications, notices, filings, and submissions to Regulatory Authorities;
 - (ii) promptly inform the other Parties of any communication received by that Party in respect of obtaining or concluding the Regulatory Approvals;
 - (iii) use commercially reasonable efforts to respond promptly to any request or notice from any Regulatory Authority requiring the Parties, or any one of them, to supply additional information that is relevant to the review of the transactions contemplated by this Agreement in respect of obtaining or concluding the Regulatory Approvals;
 - (iv) permit the other Parties to review in advance any proposed applications, notices, filings and submissions to Regulatory Authorities (including responses to requests for information and inquiries from any Regulatory Authority) in respect of obtaining or concluding the Regulatory Approvals;
 - (v) unless contrary to Law, promptly provide the other Parties with any filed copies of applications, notices, filings and submissions (including responses to requests for information and inquiries from any Regulatory Authority) that were submitted to a Regulatory Authority in respect of obtaining or concluding the Regulatory Approvals;
 - (vi) unless contrary to Law, use commercially reasonable efforts to not participate in any substantive meeting or discussion (whether in person, by telephone or video-conference, or otherwise) with Regulatory Authorities in respect of obtaining or concluding the Regulatory Approvals unless it consults with the other Parties in advance and gives the other Parties or their legal counsel the opportunity to attend and participate thereat, unless a Regulatory Authority requests otherwise;
 - (vii) unless contrary to Law, keep the other Parties promptly informed of the status of discussions relating to obtaining or concluding the Regulatory Approvals; and
 - (viii) not extend or consent to any extension of any applicable waiting or review period or enter into any agreement with a Regulatory Authority to not

consummate the transactions contemplated by this Agreement, except upon the prior written consent of the other Parties such consent not to be unreasonably withheld, conditioned or delayed.

- (b) Notwithstanding any other requirement in this Section 4.4, the Purchaser shall, and shall cause each of its Subsidiaries and Affiliates (as applicable) to, use commercially reasonable efforts to obtain the Regulatory Approvals as soon as reasonably practicable but, in any event, prior to the Outside Date. For the purposes of this Section 4.4(b), “commercially reasonable efforts” shall not include proposing, negotiating, agreeing to and effecting, by undertaking, consent agreement or otherwise: (i) the sale, divestiture, or holding separate of all or any part of the Purchaser, the REIT or any of their Subsidiaries or Affiliates; (ii) the termination or amendment of any existing contractual rights, relationships and obligations of the Purchaser, the REIT or any of their Subsidiaries or Affiliates; (iii) the taking of any action that would limit the freedom of action of, or impose any other requirement on the Purchaser, the REIT or any of their Subsidiaries or Affiliates with respect to its or their operation; and (iv) any other remedial action whatsoever that may be necessary or advisable in order to obtain the Regulatory Approvals no later than the Outside Date.
- (c) Each Party shall bear the cost of preparing its own applications, notices, filings and submissions (including responses to requests for information and inquiries from any Regulatory Authority) in connection with obtaining or concluding the Regulatory Approvals. The Purchaser shall be solely responsible for payment of any filing fee payable to a Regulatory Authority (or its government) in connection with any filing made under this Section 4.4.
- (d) For purposes of this Section 4.4, where the REIT is required to notify, inform or otherwise provide information to the Purchaser, notification shall be deemed to have been made if the Designated Cross Trustee has knowledge of the information that would otherwise have been required to be contained in the notice delivered to the Purchaser.

4.5 **Access to Information**

From the date hereof until the earlier of the Effective Time and the termination of this Agreement in accordance with its terms, subject to Law and the terms of any existing Contracts, the REIT shall, and shall cause its Subsidiaries to give to the Purchaser and its Representatives, upon reasonable notice, reasonable access to its books and records, Contracts and financial and operating data or other information with respect to the assets or business of the REIT and its Subsidiaries as the Purchaser may reasonably request which is not already in the possession of the Purchaser in any Capacity.

4.6 **Public Communications**

- (a) The REIT and the Purchaser shall each publicly announce the Arrangement promptly following the execution of this Agreement by the Parties, the text and timing of such announcements to be approved by each Party in advance, acting reasonably and in good faith. Subject to the provisions of this Agreement, the Parties shall cooperate in the preparation of presentations, if any, to Unitholders regarding the Arrangement. Without first consulting with the other Party, a Party must not issue any press release or make any other public statement or disclosure with respect to this Agreement or the Arrangement without the other Party, or make

any filing with any third party or Regulatory Authority (other than as contemplated by Section 4.3(a)(i) or as required by Securities Laws or obligations pursuant to any listing agreement with or rules of any recognized securities exchange or interdealer quotation service) with respect to this Agreement or the Arrangement without the consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, and, subject to the foregoing, each Party shall use commercially reasonable efforts to give the other Party prior oral or written notice and a reasonable opportunity to review and comment on all such news releases and other disclosure. The Party making such disclosure shall give reasonable consideration to any comments made by the other Party or its counsel.

For purposes of this Section 4.6, where the REIT is required to notify, inform or otherwise provide information to the Purchaser, notification shall be deemed to have been made if the Designated Cross Trustee has knowledge of the information that would otherwise have been required to be contained in the notice delivered to the Purchaser.

- (b) Without limiting the generality of the foregoing and for greater certainty, the Purchaser and the REIT acknowledge and agree that both shall file, in accordance with Securities Laws, this Agreement (with any redactions that are agreed by the Parties, each acting reasonably, and permitted under Securities Laws), together with a material change report related thereto, under the Purchaser's and the REIT's respective profiles on SEDAR Plus.

4.7 Notice and Cure Provisions

- (a) Each Party shall give prompt notice to the other Parties of the occurrence, or failure to occur, at any time from the date hereof until the earlier of the Effective Time and the termination of this Agreement in accordance with its terms, of any event or state of facts which occurrence or failure would, or would reasonably be likely to:
 - (i) cause any of the representations or warranties of such Party contained herein to be untrue or inaccurate in any material respect (or in all respects if already qualified by reference to "material", "Material Adverse Effect" or other concept of materiality) on the date hereof or at the Effective Time; or
 - (ii) result in the failure to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by such Party prior to the Effective Time under this Agreement.
- (b) Notification provided under this Section 4.7 will not limit or affect the representations, warranties, covenants, agreements or obligations of the Parties (or remedies with respect thereto) or the conditions to the obligations of the Parties under this Agreement.
- (c) The Purchaser shall not be permitted to exercise its right to terminate this Agreement pursuant to Section 7.2(d)(i) and the REIT shall not be permitted to exercise its right to terminate this Agreement pursuant to Section 7.2(c)(i), unless the Party seeking to terminate this Agreement (the "**Terminating Party**") has delivered a written notice (a "**Termination Notice**") to the other Party (the "**Breaching Party**") specifying in reasonable detail all breaches of covenants, or untrue or inaccurate representations and warranties or other matters which the Terminating Party asserts as the basis for termination. After delivering a

Termination Notice, provided the Breaching Party is proceeding diligently to cure such matter and such matter is capable of being cured prior to the Outside Date (with any wilful breach being deemed to be incurable), the Terminating Party may not exercise such termination right if such matter has been cured prior to the earlier of (i) the Outside Date, and (ii) the date that is twenty (20) Business Days following receipt of such Termination Notice by the Breaching Party, (iii) the date that the Breaching Party ceases or fails to make commercially reasonable efforts to cure such matter.

4.8 Insurance and Indemnification

- (a) From and after the Effective Time, the Purchaser will, and will cause the REIT and the GP to, indemnify and hold harmless, to the fullest extent permitted under Law (and to also advance expenses as incurred to the fullest extent permitted under Law), (i) each present and former trustee of the REIT and/or director of the GP, in each case including such Persons' respective heirs, executors, administrators and personal representatives (each, an "**Indemnified Person**") against any costs or expenses (including reasonable attorneys' fees), judgments, fines, losses, claims, damages or liabilities incurred in connection with any claim, inquiry, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of or related to such Indemnified Person's service as a trustee of the REIT and director of the GP at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time, including, without limiting the generality of the foregoing, the approval or completion of this Agreement, the Arrangement or any of the transactions contemplated by this Agreement or arising out of or related to this Agreement and the transactions contemplated by this Agreement; provided that the Purchaser shall not be required to indemnify an Indemnified Person unless: (i) such Indemnified Person acted honestly and in good faith with a view to the best interests of the Unitholders and the REIT, in the case of Indemnified Persons that are trustees of the REIT, and the GP, in the case of Indemnified Persons that are directors of the GP; and (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, such Indemnified Person had reasonable grounds for believing that their conduct was lawful. Neither the Purchaser nor the REIT or the GP will settle, compromise or consent to the entry of any judgment in any claim, action, suit, proceeding or investigation or threatened claim, action, suit, proceeding or investigation involving or naming an Indemnified Person or arising out of or related to an Indemnified Person's service as a trustee of the REIT or a director of the GP at or prior to the Effective Time without the prior written consent of that Indemnified Person which will not be unreasonably withheld, conditioned or delayed.
- (b) Prior to the Effective Date, the REIT shall purchase customary "tail" policies of trustees', directors' and officers' liability insurance providing protection no less favourable in the aggregate to the protection provided by the policies maintained by the REIT and its Subsidiaries which are in effect immediately prior to the Effective Date and providing protection in respect of claims arising from facts or events which occurred on or prior to the Effective Date, and the Purchaser shall, or shall cause its Subsidiaries to maintain such tail policies in effect without any reduction in scope or coverage for six (6) years from the Effective Date; provided that the Purchaser shall not be required to pay any amounts in respect of such coverage prior to the Effective Time; and provided further that the cost of such

policies shall not exceed 300% of the aggregate annual premium for the policies currently maintained by the REIT and its Subsidiaries.

- (c) The Purchaser shall cause the REIT and its Subsidiaries (including the GP) to honour all rights to indemnification or exculpation in favour of Indemnified Persons to the extent that such rights: (i) arise or result from Section 4.8(a); (ii) now exist and are contained in Constatng Documents; or (iii) are provided for by Law, and acknowledges that subject to Section 4.8(e) such rights shall not be amended or rescinded in a manner adverse to the applicable Indemnified Person and shall survive the completion of the Plan of Arrangement and shall continue in full force and effect in accordance with their terms for a period of not less than six (6) years from the Effective Date.
- (d) If the Purchaser, the Limited Partnership, the GP or any of their Subsidiaries or any of their respective successors or assigns following the Effective Time (i) consolidates or amalgamates with or merges or liquidates into any other Person and is not a continuing or surviving corporation or entity of such consolidation, amalgamation, merger or liquidation, or (ii) transfers all or substantially all of its properties and assets to any Person, proper arrangements shall be made so as to ensure that any such successor or assign (including, as applicable, any acquirer of substantially all of the properties and assets of the Purchaser, the Limited Partnership, the GP or any of their Subsidiaries) assumes all of the obligations set forth in this Section 4.8. This Section 4.8 is in addition to and not in substitution of, any other rights of Indemnified Persons under contract or otherwise.
- (e) This Section 4.8 shall survive the consummation of the Arrangement and is intended to be for the benefit of the Indemnified Persons and shall be binding on the Purchaser, the GP and their Subsidiaries and their respective successors and assigns, and, for such purpose, the REIT and the GP hereby confirm that they are acting as agent on behalf of the Indemnified Persons, provided however that no approval of any Indemnified Person will be required in connection with any amendment or variation of this Section 4.8 prior to the Effective Date. If any Indemnified Person makes any claim for indemnification or advancement of expenses under this Section 4.8 that is denied by the Purchaser or the GP, and a court of competent jurisdiction determines that the Indemnified Person is entitled to such indemnification, then the Purchaser and the GP will pay such Indemnified Person's costs and expenses, including reasonable legal fees and expenses, incurred in connection with pursuing such claim against the REIT, its Subsidiaries or the Purchaser.

4.9 **TSX De-Listing**

The Purchaser shall use its commercially reasonable efforts to assist the REIT with the delisting of the Units and the Debentures from the TSX within a reasonable period of time following the completion of the Arrangement.

4.10 **Pre-Arrangement Reorganization**

The REIT agrees that, prior to the Effective Date, upon the reasonable request by the Purchaser, the REIT shall, and shall cause its Subsidiaries to, (i) effect such reorganizations of the REIT and/or its Subsidiaries', operations and assets or such other transactions as the Purchaser may request, acting reasonably (each a "**Pre-Arrangement Reorganization**") and (ii) co-operate with the Purchaser and its advisors in order to determine the nature of the Pre-

Arrangement Reorganizations that might be undertaken and the manner in which they might most effectively be undertaken; provided, however, that the REIT need not effect any Pre-Arrangement Reorganization which, in the opinion of the REIT or the Special Committee, acting reasonably, (A) would require the approval of Unitholders or other securityholders, (B) would be prejudicial to the REIT, its Subsidiaries, Joint Ventures, the Unitholders or other securityholders, (C) would reduce the Consideration to be received by the Unitholders, (D) would unreasonably interfere with the ongoing operations of the REIT and/or its Subsidiaries or Joint Ventures, (E) unless agreed by the REIT, in its sole discretion, would require any filing with, notification to or approval of any Regulatory Authority or third party prior to the Effective Date, (F) would require the REIT or any of its Subsidiaries or Joint Ventures to contravene any applicable Laws or its respective Constatng Documents or any Contract, (G) would result in Taxes being imposed on, or other adverse Tax consequences to the REIT, any of its Subsidiaries or Joint Ventures or any Unitholders or other securityholders that is incrementally greater than the Taxes imposed on or other consequences to such persons in connection with the completion of the Arrangement in the absence of such Pre-Arrangement Reorganization, (H) result in the withdrawal or material modification of the Fairness Opinion of the Formal Valuation, (I) would impair, prevent, impede or materially delay the consummation of the Arrangement, or (J) would be unable to be reversed or unwound in the event the Arrangement is not consummated without prejudicing the REIT, any of its Subsidiaries and Joint Ventures or Unitholders or other securityholders. Furthermore, any such Pre-Arrangement Reorganization shall not become effective until following the satisfaction or waiver of all conditions precedent to the Arrangement, and in any case not earlier than immediately prior to the Effective Time. For further clarity, the REIT shall not be required to implement any Pre-Arrangement Reorganization unless the Purchaser has waived or confirmed in writing the satisfaction of all conditions (other than conditions which, by their nature, are only capable of being satisfied as of the Effective Time) in its favour under this Agreement and shall have confirmed in writing that it is prepared, and able, to promptly and without condition (other than conditions which, by their nature, are only capable of being satisfied as of the Effective Time) proceed to effect the Arrangement. The Purchaser acknowledges and agrees that the Pre-Arrangement Reorganization shall be disregarded in determining whether a representation, warranty or covenant of the REIT hereunder has been breached and for further clarity, any step or action taken by REIT or any of its Subsidiaries and Joint Ventures in furtherance of a proposed Pre-Acquisition Reorganization shall not be considered to be a breach of any representation, warranty or covenant of the REIT or the GP contained in this Agreement. The Purchaser shall provide written notice to the REIT of any proposed Pre-Arrangement Reorganization at least fifteen Business Days prior to the Effective Time. Upon receipt of such notice, the Purchaser and the REIT shall at the expense of the Purchaser work co-operatively and use their commercially reasonable efforts to prepare prior to the Effective Time all documentation necessary and do all such other acts and things as are necessary to give effect to such Pre-Arrangement Reorganization, including effecting any necessary amendments to the Plan of Arrangement, if any. The Purchaser shall forthwith reimburse the REIT for all fees and expenses ((including any professional fees and expenses and Taxes) incurred by the REIT and its Subsidiaries and Joint Ventures in connection with the Pre-Arrangement Reorganization if the Arrangement is not completed and shall be responsible for all fees, expenses and costs (including professional fees and expenses and Taxes) of REIT and its Subsidiaries and Joint Ventures in reversing or unwinding any Pre-Arrangement Reorganization that was effected prior to the Effective Time and the Arrangement was no so implemented. The Purchaser shall indemnify the REIT, its Subsidiaries and Joint Ventures and their respective officers, trustees, directors, employees, agents, advisors and representatives, and the Unitholders from and against any and all liabilities, losses, damages, claims, costs, Taxes, expenses, interest, awards, judgements and penalties, suffered or incurred by any of them in connection with or as a result or in connection with

implementing, reversing, modifying or unwinding of any Pre-Arrangement Reorganization. The obligations of the Purchaser hereunder shall survive termination of this Agreement.

4.11 **Existing Subsidiary Financing**

At the cost, expense and request of the Purchaser, the REIT shall use its commercially reasonable efforts to cooperate, and cause its Subsidiaries to cooperate, with the Purchaser, as the Purchaser may reasonably require, in order (and the Purchaser shall use reasonable commercial efforts) to obtain the consent of prescribed lenders.

4.12 **Redemption of Debenture**

The REIT shall, in accordance with the Debenture Indenture, issue a redemption notice (the "**Redemption Notice**") to redeem all of the Debentures on such date as the REIT shall determine in consultation with the Purchaser; provided that the Redemption Notice shall not be issued any later than immediately following the issuance of the Final Order. The redemption date set forth in the Redemption Notice (the "**Redemption Date**") shall be a date that is thirty (30) days from the date of issue (taking into account the appropriate number of days for notice to be deemed to have been given as set forth in the Debenture Indenture). No less than two (2) Business Days prior to the Redemption Date, the REIT shall pay or cause to be paid to the Depository all accrued but unpaid interest on the Debentures required to be paid on the Redemption Date and the Purchaser shall pay or cause to be paid to the Depository the Debenture Repayment Amount.

ARTICLE 5 CONDITIONS

5.1 **Mutual Conditions Precedent**

The obligations of the Parties to complete the Arrangement and the transactions contemplated by this Agreement are subject to the fulfillment of each of the following conditions precedent on or before the Effective Time, each of which may only be waived, in whole or in part, with the mutual consent of the Parties:

- (a) the Arrangement Resolution has been approved by Unitholders and the Special Voting Unitholders at the Meeting in accordance with the Interim Order;
- (b) the Interim Order and the Final Order will each have been obtained on terms consistent and in accordance with this Agreement, and not have been set aside or modified in a manner unacceptable to the REIT or the Purchaser, each acting reasonably, on appeal or otherwise;
- (c) each of the Regulatory Approvals set forth in Schedule E shall have been obtained or concluded, and be in full force and effect, and shall not have been rescinded or modified;
- (d) no Law is in effect that makes the consummation of the Arrangement illegal or otherwise prohibits or enjoins the REIT, the GP or the Purchaser from consummating the Arrangement;
- (e) the Articles of Arrangement to be sent to the Registrar under the ABCA in accordance with this Agreement shall be in a form and substance consistent with this Agreement and satisfactory to the REIT and the Purchaser, each acting reasonably;

- (f) no Action is proceeding or pending, to (i) cease trade, enjoin or prohibit the transactions contemplated by this Agreement, (ii) to impose any material limitations or material conditions on the transactions contemplated by this Agreement; and
- (g) this Agreement shall not have been terminated in accordance with its terms.

5.2 **Additional Conditions Precedent to the Obligations of the Purchaser**

The obligations of the Purchaser to complete the Arrangement and the transactions contemplated by this Agreement will also be subject to the fulfillment of each of the following conditions precedent (each of which is for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser at any time in its sole discretion):

- (a) (i) The representations and warranties of the REIT set forth in Section 1 [*Status*], Section 2 [*Authorization*], Section 3 [*No Breach*], Section 4 [*Enforceability*], Section 5 [*No Bankruptcy*], Section 6 [*Regulatory Approvals*], and Section 7 [*Capitalization*] of Schedule C are true and correct in all respects as of the date of this Agreement (except for *de minimis* inaccuracies) and, as of the Effective Time (except for *de minimis* inaccuracies and as a result of transactions, changes, conditions, events or circumstances permitted hereunder and except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of that specified date), (ii) all other representations and warranties of the REIT set forth in Schedule C are true and correct in all respects as of the date of this Agreement and as of the Effective Time (except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of that specified date), without regard to any materiality or Material Adverse Effect qualifications contained in them, except where the failure or failures of all such representations and warranties to be so true and correct in all respects, individually or in the aggregate, would not result in a Material Adverse Effect, and (iii) the REIT has delivered a certificate confirming same to the Purchaser, executed by two executive officers of the REIT (without personal liability) addressed to the Purchaser and dated the Effective Date;
- (b) the REIT has fulfilled or complied in all material respects with each of the covenants of the REIT contained in this Agreement to be fulfilled or complied with by it on or prior to the Effective Time, and has delivered a certificate confirming same to the Purchaser, executed by two executive officers of the REIT (without personal liability) addressed to the Purchaser and dated the Effective Date;
- (c) since the date of this Agreement, there shall not have occurred a Material Adverse Effect;
- (d) the Net Payment Obligation does not exceed \$30 million;
- (e) Dissent Rights have not been exercised with respect to more than ten percent (10.0%) of the issued and outstanding Units; and
- (f) subject to obtaining the Final Order and the satisfaction or waiver of the other conditions precedent contained herein in the REIT's favour (other than conditions which, by their nature, are only capable of being satisfied as of the Effective Time), the REIT has deposited or caused to be deposited with the Depositary in escrow

an amount equal to accrued but unpaid interest on the Debentures required to be paid on the Redemption Date.

5.3 **Additional Conditions Precedent to the Obligations of the REIT**

The obligations of the REIT and the GP to complete the Arrangement and the transactions contemplated by this Agreement will also be subject to the following conditions precedent (each of which is for the exclusive benefit of the REIT and the GP and may be waived jointly, in whole or in part, by the REIT and the GP in their sole discretion, which waiver shall not be effective unless consented to by the Special Committee in addition to the REIT and the GP):

- (a) (i) the representations and warranties of (A) the Purchaser set forth in Section 1 [*Status*], Section 2 [*Authorization*], Section 3 [*No Breach*], Section 4 [*Enforceability*], Section 5 [*No Bankruptcy*], Section 6 [*Regulatory Approvals*] and Section 8 [*Investment Canada Act*] of Schedule D are true and correct in all respects as of the date of this Agreement and as of the Effective Time (except for *de minimis* inaccuracies therein), (ii) all other representations and warranties of the Purchaser set forth in Schedule D are true and correct in all respects as of the date of this Agreement and as of the Effective Time (except for representations and warranties made as of a specified date, the accuracy of which shall be determined as of that specified date), without regard to any materiality qualifications contained in them, except where the failure or failures of all such representations and warranties to be so true and correct in all respects, individually or in the aggregate, would not reasonably be expected to materially impede the completion of the Arrangement, and (iii) the Purchaser has delivered a certificate confirming same, executed by two officers the Purchaser (without personal liability), to the REIT and the GP and dated the Effective Date;
- (b) the Purchaser has fulfilled or complied in all material respects with each of its covenants contained in this Agreement to be fulfilled or complied with by it on or prior to the Effective Time, and the Purchaser has delivered a certificate confirming same to the REIT and the GP, executed by one two officers of the Purchaser (without personal liability), to the REIT and the GP and dated the Effective Date; and
- (c) subject to obtaining the Final Order and the satisfaction or waiver of the other conditions precedent contained herein in the Purchaser's favour (other than conditions which, by their nature, are only capable of being satisfied as of the Effective Time), the Purchaser has deposited or caused to be deposited with the Depositary in escrow in accordance with Section 2.10, the Debenture Repayment Amount and funds required to effect payment in full of the Consideration to be paid pursuant to the Arrangement.

5.4 **Satisfaction of Conditions**

The conditions precedent set out in Section 5.1, Section 5.2 and Section 5.3 will be conclusively deemed to have been satisfied, waived or released when the Certificate of Arrangement is issued by the Registrar. For greater certainty and notwithstanding the terms of any escrow agreement entered into with the Depositary, all Consideration held in escrow by the Depositary pursuant to Section 2.10 shall be deemed to be released from escrow when the Certificate of Arrangement is issued by the Registrar.

ARTICLE 6
COVENANTS RELATING TO ACQUISITION PROPOSALS

6.1 Go-Shop Period

- (a) Notwithstanding any other provision of this Agreement, during the Go-Shop Period, the REIT and its Representatives shall have the right to (i) solicit, initiate, encourage, seek the making of, induce or otherwise facilitate any inquiry, proposal or offer that constitutes or may reasonably be expected to constitute or lead to, an Acquisition Proposal, (ii) enter into or otherwise engage or participate in any negotiations or discussions with any Person regarding any inquiry, proposal or offer that constitutes, or may reasonably be expected to constitute or lead to, an Acquisition Proposal, (iii) subject to entering into a REIT Confidentiality Agreement, provide copies of, access to, or disclosure of, any information with respect to the business, properties, assets, operations, books and records, prospects or conditions (financial or otherwise) of the REIT and its Subsidiaries and Joint Ventures; provided that (A) the Purchaser is promptly (and in any event within twenty-four (24) hours) provided with (to the extent not previously provided) any such information provided to such Person, and (B) the REIT will not pay, agree to pay or cause to be paid or reimburse, agree to reimburse or cause to be reimbursed, any expenses of any Person, or any of such Person's Representatives or financing sources, in connection with any Acquisition Proposals (or inquiries, proposals or offers that may lead to an Acquisition Proposal), or (iv) otherwise cooperate in any way with, or to do or seek to do any of the foregoing.
- (b) Immediately following the expiry of the Go-Shop Period, the REIT shall, and shall cause its Subsidiaries and Joint Ventures and its or its Subsidiaries' and Joint Ventures' Representatives to, cease all actions permitted by this Section 6.1, including such discussion and cooperation with any Person or any Person's Representatives (other than the Purchaser, its Affiliates, any Excluded Party and their respective Representatives) with respect to an inquiry, proposal or offer that constitutes, or may reasonably be expected to constitute or to lead to, an Acquisition Proposal.
- (c) As promptly as reasonably practicable, and in any event, within forty-eight (48) hours following the expiry of the Go-Shop Period, the REIT must notify the Purchaser in writing of each Excluded Party, the identity of each Person with whom the REIT entered into a REIT Confidentiality Agreement on or prior to the expiry of the Go-Shop Period or from whom the REIT received an Acquisition Proposal prior to the expiry of the Go-Shop Period and provide the Purchaser with a copy of any written Acquisition Proposal received after the start of the Go-Shop Period but prior to the expiry of the Go-Shop Period, a copy of any proposed definitive agreement for the Acquisition Proposal and all ancillary documentation (and supporting materials) containing material terms and conditions of the Acquisition Proposal (including any financing documents subject to customary confidentiality provisions) (or where no copies are available, a reasonably detailed description thereof).

6.2 Non-Solicitation

- (a) Except as otherwise expressly provided in Section 6.1 or otherwise provided in this Article 6, the REIT shall not and shall cause its Subsidiaries not to, directly or

indirectly, through any of their respective Representatives, or otherwise, and shall not permit any Person to:

- (i) other than in accordance with Section 6.3 and Section 6.4, solicit, initiate, facilitate or knowingly encourage (including by furnishing information or providing copies of, access to, or disclosure of, any confidential information of the REIT and/or any of its Subsidiaries, or entering into any form of agreement, arrangement or understanding) any inquiries or proposals or offers that constitute, or would reasonably be expected to constitute or lead to, an Acquisition Proposal;
 - (ii) other than in accordance with Section 6.3 and Section 6.4, encourage, enter into or otherwise engage, continue or participate in any discussions or negotiations with any Person (other than the Purchaser and its Affiliates and their respective Representatives), with respect to any inquiry, proposal or offer that constitutes, or would reasonably be expected to constitute or lead to, an Acquisition Proposal, provided that the REIT may (A) advise any Person of the restrictions of this Agreement, (B) contact the Person for the sole purpose of seeking clarification of the terms of such Acquisition Proposal as contemplated in Section 6.3(a)(ii), and (C) advise any Person making an Acquisition Proposal that the Board or the Special Committee has determined that such Acquisition Proposal does not constitute or would not reasonably be expected to result in or lead to a Superior Proposal, in each case, if, in so doing, no other information that is prohibited from being communicated under this Agreement is communicated to such Person;
 - (iii) other than in accordance with Section 6.3 and Section 6.4, enter into or publicly propose to enter into any Contract in respect of an Acquisition Proposal (other than a definitive agreement permitted by and in accordance with Section 6.5(a)(vii) or a confidentiality and standstill agreement permitted by and in accordance with Section 6.4);
 - (iv) make a Change in Recommendation;
 - (v) fail to enforce, or grant any waiver under, any standstill or similar agreement with any Person (other than the Purchaser), it being acknowledged by the Purchaser that the REIT shall not be obligated to enforce any standstill or similar agreement or covenants that are automatically terminated or released as a result of entering into and/or announcing this Agreement; or
 - (vi) accept, approve, endorse, or recommend, or propose publicly to accept, approve, endorse or recommend, any Acquisition Proposal (it being understood that publicly taking no position or a neutral position with respect to an Acquisition Proposal for a period of no more than five (5) Business Days following the formal announcement of such Acquisition Proposal shall not be considered to be in violation of this Section 6.1 provided that the Board has rejected such Acquisition Proposal and affirmed the Board Recommendation before the end of such five (5) Business Day period).
- (b) Except as otherwise provided in this Section 6.2 or otherwise provided in this Article 6, immediately after the expiry of the Go-Shop Period, the REIT will, and will cause its Subsidiaries and their respective Representatives to immediately

cease and cause to be terminated any solicitation, discussion, negotiation, encouragement or activity with any Person (other than the Purchaser, its Affiliates and their Representatives) with respect to any inquiry, proposal or offer that constitutes, or would reasonably be expected to constitute or lead to, an Acquisition Proposal, including, any Person who executed a market confidentiality, non-disclosure and standstill agreement with the REIT in connection with the consideration of a possible acquisition of the REIT or its business (each a “**REIT Confidentiality Agreement**”) and, in connection therewith, the REIT shall:

- (i) promptly discontinue access or disclosure of all information, including any data room (whether physical or virtual) and any confidential information, properties, facilities, books and records of the REIT or any of its Subsidiaries and Joint Ventures; and
- (ii) promptly, and in any event, within five (5) Business Days of the expiry of the Go-Shop Period, request that all Persons who executed a REIT Confidentiality Agreement (other than an Excluded Party and their Representatives) return or destroy (and request that their respective Representatives return or destroy) all confidential information furnished under such REIT Confidentiality Agreement by or on behalf of the REIT, subject to the terms of such REIT Confidentiality Agreement.

6.3 **Notification of Acquisition Proposals**

- (a) If at any time after the expiry of the Go-Shop Period, the REIT or any of its Subsidiaries and Joint Ventures or any of their respective Representatives receives any inquiry, proposal or offer that constitutes, or would reasonably be expected to constitute or lead to an Acquisition Proposal or has received from an Excluded Party any inquiry, proposal or offer that constitutes or would reasonably be expected to constitute or lead to an Acquisition Proposal, or any request for copies of, access to, or disclosure of, confidential information relating to the REIT or any of its Subsidiaries and Joint Ventures in relation to a possible Acquisition Proposal or any existing Acquisition Proposal from an Excluded Party, including information, access or disclosure relating to the properties, facilities, books and records of the REIT or any of its Subsidiaries and Joint Ventures, the REIT:
 - (i) shall promptly notify the Purchaser, at first orally, and then (and in any event within 24 hours following receipt) in writing, of such Acquisition Proposal, inquiry, proposal, offer or request, including the material terms and conditions thereof and the identity of the Person making the Acquisition Proposal, inquiry, proposal, offer or request, and shall provide the Purchaser with copies of all documents, material correspondence and other materials received from or on behalf of such Person relating to the Acquisition Proposal;
 - (ii) prior to obtaining the REIT Unitholder Approval at the Meeting, may contact the Person making the Acquisition Proposal, inquiry, proposal, offer or request and its Representatives solely for the purpose of clarifying the terms and conditions of such Acquisition Proposal, inquiry, proposal, offer or request so as to determine whether such Acquisition Proposal, inquiry, proposal, offer or request is, or would reasonably be expected to constitute or lead to, a Superior Proposal; and

- (iii) shall keep the Purchaser informed of the status, including any change to the material terms, of such Acquisition Proposal, inquiry, proposal, offer or request (including from any Excluded Party), and shall provide to the Purchaser copies of all substantive correspondence if in writing or electronic form, and if not in writing or electronic form, a description of the terms of such correspondence communicated to the REIT by or on behalf of any Person (including any Excluded Party) making any such Acquisition Proposal, inquiry, proposal, offer or request, and shall respond promptly to all inquiries by the Purchaser with respect thereto.

6.4 **Responding to Acquisition Proposals**

- (a) Notwithstanding Section 6.2 or any other provision of this Agreement, if at any time after the expiry of the Go-Shop Period and prior to obtaining the REIT Unitholder Approval at the Meeting the REIT receives a *bona fide* unsolicited Acquisition Proposal or has received from an Excluded Party an Acquisition Proposal, the REIT and its Representatives may engage in or participate in discussions or negotiations with the relevant Person regarding such Acquisition Proposal, and, subject to entering into, or having previously entered into during the Go-Shop Period, a REIT Confidentiality Agreement with such Person, may provide copies of, access to, or disclosure of, confidential information and disclosure relating to the properties, facilities, books and records of the REIT or any of its Subsidiaries, if and only if:
 - (i) the Board (excluding the Cross Trustees) first determines in good faith, after consultation with its financial and outside legal advisors, that such Acquisition Proposal constitutes, or could reasonably be expected to constitute or lead to, a Superior Proposal if consummated in accordance with its terms;
 - (ii) such Person was not restricted from making such Acquisition Proposal pursuant to any existing confidentiality, standstill or similar restriction to which the REIT or any of its Subsidiaries is party; provided such requirement shall not apply if such Person enters into, or has previously entered into during the Go-Shop Period, a REIT Confidentiality Agreement;
 - (iii) the REIT has been, and continues to be, in compliance with its obligations under this Article 6 in all material respects; and
 - (iv) the REIT has provided the Purchaser with written notice stating the REIT's intention to participate in such discussions or negotiations and to provide such copies, access or disclosure.

6.5 **Right to Match**

- (a) If at any time following the date of this Agreement and prior to obtaining the REIT Unitholder Approval at the Meeting, the REIT receives a *bona fide* Acquisition Proposal that constitutes a Superior Proposal, subject to compliance with Section 7.4, the Board (excluding the Cross Trustees) may authorize the REIT to enter into

a definitive agreement or make a Change in Recommendation with respect to such Acquisition Proposal, if and only if:

- (i) the Person making the Superior Proposal was not restricted from making such Superior Proposal pursuant to any existing confidentiality, standstill or similar restriction to which the REIT or any of its Subsidiaries or Joint Ventures is party;
 - (ii) the REIT has been, and continues to be, in compliance with its obligations under this Article 6 in all material respects;
 - (iii) the REIT has provided the Purchaser with (A) written notice of the determination of the Board (excluding the Cross Trustees) that such Acquisition Proposal constitutes a Superior Proposal and of the intention of the Board (excluding the Cross Trustees) to enter into such definitive agreement or make a Change in Recommendation, together with (B) written notice from the Board (excluding the Cross Trustees) regarding the value and financial terms that the Board (excluding the Cross Trustees), in consultation with its financial advisors, has determined should be ascribed to any non-cash consideration offered under such Acquisition Proposal (the “**Superior Proposal Notice**”) and (C) a copy of the proposed definitive agreement for the Superior Proposal and all schedules and exhibits thereto;
 - (iv) during the Go-Shop Period, at least five (5) Business Days or, after the expiry of the Go-Shop Period, at least five (5) Business Days (in each case, the “**Matching Period**”) have elapsed from the date that is the later of the date on which the Purchaser received the Superior Proposal Notice and the date on which the Purchaser received a copy of all the material set forth in Section 6.5(a)(iii);
 - (v) after the Matching Period, the Board (excluding the Cross Trustees) has determined in good faith, after consultation with its outside legal counsel and financial advisors, that such Acquisition Proposal continues to constitute a Superior Proposal, if applicable, compared to the terms of the Arrangement as proposed to be amended by the Purchaser under Section 6.5(b);
 - (vi) after the Matching Period, the Board (excluding the Cross Trustees) has determined, in good faith, after consultation with its outside legal counsel, that the Acquisition Proposal continues to constitute a Superior Proposal and failure of the Board to make a Change in Recommendation and/or to enter into a definitive agreement with respect to such Superior Proposal would be inconsistent with its fiduciary duties; and
 - (vii) prior to or concurrently with entering into a definitive agreement with respect to such Superior Proposal, the REIT terminates this Agreement pursuant to Section 7.2(c)(ii) and pays the Termination Fee or the Go-Shop Fee, as applicable, pursuant to Section 7.4.
- (b) During the Matching Period, or such longer period as the Board (excluding the Cross Trustees) may, in its sole discretion, approve in writing for such purpose (i) the Purchaser shall have the right, but not the obligation, to offer to amend the

terms of the Arrangement and this Agreement in order for such Acquisition Proposal to cease to be a Superior Proposal, (ii) the Board (excluding the Cross Trustees) shall review any offer made by the Purchaser to amend the terms of the Arrangement and this Agreement in good faith (after receiving the advice of its outside counsel and financial advisors) in order to determine, whether the Purchaser's amended offer, upon acceptance, would cause the Superior Proposal giving rise to the Matching Period to cease to be a Superior Proposal, (iii) if the Board (excluding the Cross Trustees) determines that the Acquisition Proposal giving rise to such Matching Period no longer constitutes a Superior Proposal compared to the Arrangement and this Agreement as they are proposed to be amended by the Purchaser, the REIT shall promptly so advise the Purchaser and the Parties shall amend this Agreement to give effect to such amendments, and shall take and cause to be taken all such actions as are necessary to give effect to the foregoing.

- (c) Each successive material amendment to any Acquisition Proposal from the same Party that results in an increase in, or a modification of, the consideration (or value of such consideration) to be received by the REIT or the Unitholders, as applicable, or other material terms or conditions thereof shall constitute a new Acquisition Proposal for the purposes of this Section 6.5 and the Purchaser shall be afforded the rights set forth in this Section 6.5 with respect to such new Acquisition Proposal, including the five (5) Business Day Matching Period during the Go-Shop Period or the five (5) Business Day Matching Period after the Go-Shop Period.
- (d) The Board (excluding the Cross Trustees) shall promptly reaffirm the Board Recommendation by press release after: (i) the Board has determined that any Acquisition Proposal is not a Superior Proposal if the Acquisition Proposal has been publicly announced; (ii) or the Board (excluding the Cross Trustees) determines that a proposed amendment to the terms of this Agreement and the Arrangement as contemplated under Section 6.5(b) would result in an Acquisition Proposal that has been publicly announced and which previously constituted a Superior Proposal ceasing to be a Superior Proposal (it being understood that publicly taking no position or a neutral position with respect to an Acquisition Proposal for a period of no more than five (5) Business Days following the formal announcement of such Acquisition Proposal shall not be considered to be in violation of this Section 6.5 provided the Board (excluding the Cross Trustees) has re-affirmed the Board Recommendation before the end of such five (5) Business Day period). The REIT shall provide the Purchaser and its legal counsel with a reasonable opportunity to review the form and content of any such press release and shall give reasonable consideration and make reasonable amendments to such press release as requested by the Purchaser and its outside legal counsel.
- (e) If the REIT provides a Superior Proposal Notice to the Purchaser after the date that is ten (10) Business Days before the Meeting, the REIT shall either proceed with or shall postpone the Meeting, as directed by the Purchaser acting reasonably, to a date that is not more than ten (10) Business Days after the scheduled date of the Meeting, but in any event to a date that is not less than five (5) Business Days prior to the Outside Date.
- (f) Nothing in this Agreement shall prevent the Board from responding through a trustees' circular or otherwise making disclosure as and to the extent required by Law to an Acquisition Proposal that it determines is not a Superior Proposal.

Further, nothing in this Agreement shall prevent the Board from making any disclosure to the Unitholders if the Board, acting in good faith and upon the advice of its outside legal and financial advisors, shall have determined that the failure to make such disclosure would be inconsistent with the fiduciary duties of the Board or such disclosure is otherwise required under Law; provided for certainty that the Board shall not be entitled to make a Change in Recommendation except in connection with a Superior Proposal. In addition, nothing contained in this Agreement will prevent the REIT or the Board from calling and holding a meeting of Unitholders requisitioned by Unitholders in accordance with Law or ordered to be held by a Regulatory Authority in accordance with Law.

6.6 **Breach by Subsidiaries and Representatives**

Without limiting the generality of the foregoing and subject to Section 4.3(a)(ix) any violation of the restrictions set forth in this Article 6 by the REIT's Subsidiaries and Joint Ventures or the REIT's Representatives shall be deemed to be a breach of this Article 6 by the REIT.

ARTICLE 7 TERM, TERMINATION AND WAIVER

7.1 **Term**

This Agreement shall be effective from the date hereof until the earlier of the Effective Time and the termination of this Agreement in accordance with its terms.

7.2 **Termination**

This Agreement may be terminated at any time prior to the Effective Time (notwithstanding any approval of this Agreement or the Arrangement Resolution by REIT Unitholder Approval or the Arrangement by the Court) by:

- (a) the mutual written agreement of the Parties; or
- (b) either the REIT or the Purchaser if:
 - (i) **Arrangement Resolution Not Approved.** The REIT Unitholder Approval is not obtained in accordance with the Interim Order; provided that a Party may not terminate this Agreement pursuant to this Section 7.2(b)(i) if the failure to obtain REIT Unitholder Approval has been caused by, or is a result of, a breach by such Party of any of its representations or warranties or the failure of such Party to perform any of its covenants or agreements under this Agreement;
 - (ii) **Illegality.** After the date of this Agreement, any Law is enacted, made, enforced or amended, as applicable, that makes the consummation of the Arrangement or the transactions contemplated by this Agreement illegal or otherwise permanently prohibits or enjoins the REIT, the GP or the Purchaser from consummating the Arrangement or the transactions contemplated by this Agreement, and such Law (if applicable) or injunction has become final and non-appealable; provided the Party seeking to terminate this Agreement pursuant to this Section 7.2(b)(ii) has used its commercially reasonable efforts to, as applicable, prevent, appeal

or overturn such Law or injunction or otherwise have it lifted or rendered non-applicable in respect of the Arrangement or the transactions contemplated by this Agreement, and provided further that the making, enforcement or amendment of such Law or injunction was not due to a breach by such Party of any of its representations or warranties, or the failure of such Party to perform any of its covenants or agreements, under this Agreement; or

- (iii) **Occurrence of Outside Date.** The Effective Time does not occur on or prior to the Outside Date; provided that a Party may not terminate this Agreement pursuant to this Section 7.2(b)(iii) if the failure of the Effective Time to so occur has been caused by, or is a result of, a breach by such Party of any of its representations or warranties or the failure of such Party to perform any of its covenants or agreements under this Agreement;

(c) the REIT, on behalf of itself and on behalf of the GP, if:

- (i) **Breach by the Purchaser.** A breach of any representation or warranty of, or failure to perform any covenant or agreement on the part of the Purchaser under this Agreement occurs that would cause any condition in Section 5.3(a) or Section 5.3(b) not to be satisfied, and such breach or failure is incapable of being cured or is not cured on or prior to the Outside Date in accordance with the terms of Section 4.7; provided that any wilful breach shall be deemed to be incapable of being cured and provided that the REIT and the GP are not then in breach of this Agreement so as to directly or indirectly cause any condition in Section 5.2(a) or Section 5.2(b) not to be satisfied, provided that the REIT and the GP shall not be considered to be in breach of this Agreement if the Purchaser is in breach of Section 4.3(a)(ix) or Section 3.1(c);
- (ii) **Superior Proposal.** Prior to obtaining the REIT Unitholder Approval, the Board authorizes (excluding the Cross Trustees) the REIT to enter into a definitive written agreement (other than a REIT Confidentiality Agreement) with respect to any Superior Proposal in accordance with and subject to the terms and conditions of Section 6.5, provided the REIT and the GP are then in material compliance with Article 6 and prior to or concurrent with such termination, the REIT pays the Termination Fee or the Go-Shop Fee, as applicable, in accordance with Section 7.4;

(d) the Purchaser if:

- (i) **Breach by the REIT.** A breach of any representation or warranty of, or failure to perform any covenant or agreement on the part of the REIT or the GP under this Agreement (other than a failure caused as a result of an action or step described in subsection 1.1(mmm)(i) provided that such action or step does not result in a Material Adverse Effect) occurs that would cause any condition in Section 5.2(a) or Section 5.2(b) not to be satisfied, and such breach or failure is incapable of being cured on or prior to the Outside Date or is not cured in accordance with the terms of Section 4.7; provided that any wilful breach shall be deemed to be incapable of being cured and provided further that the Purchaser is not then in breach

of this Agreement so as to directly or indirectly cause any condition in Section 5.3(a) or Section 5.3(b) not to be satisfied;

- (ii) **Change in Recommendation.** Prior to obtaining the REIT Unitholder Approval (A) the Board or the Special Committee withdraws, withholds, qualifies or modifies in a manner adverse to the Purchaser the Board Recommendation, or fails to reaffirm, within five (5) Business Days (and in any case prior to the Meeting) after receipt of a written request by the Purchaser, the Board Recommendation (a “**Change in Recommendation**”), it being understood that publicly taking a neutral position or no position with respect to an Acquisition Proposal for a period of more than five (5) Business Days after public announcement of an Acquisition Proposal (or beyond the date which is one day prior to the Meeting, if sooner) shall be considered an adverse modification, (B) the Board or the Special Committee approves or recommends any Acquisition Proposal, (C) the Board or the Special Committee approves, recommends or authorizes the REIT to enter into a written agreement in respect of an Acquisition Proposal (other than a REIT Confidentiality Agreement), or (D) was in wilful breach of Article 6 in any material respect; or
- (iii) **Material Adverse Effect.** Since the date of this Agreement, there has occurred a Material Adverse Effect and such Material Adverse Effect is incapable of being cured on or prior to the Outside Date.

7.3 **Notice**

The Party desiring to terminate this Agreement pursuant to Section 7.2 (other than pursuant to Section 7.2(a)) shall give written notice of such termination to the other Party(ies), specifying in reasonable detail the basis for such Party's exercise of its termination right.

7.4 **Termination Fees and Go-Shop Fees**

- (a) Despite any other provision in this Agreement relating to the payment of fees and expenses, if a REIT Termination Fee Event or a Go-Shop Fee Event, as applicable, occurs, the REIT shall pay the Purchaser the Termination Fee or the Go-Shop Fee, as applicable, in accordance with Section 7.4(d).
- (b) For the purpose of this Agreement, “**Go-Shop Fee Event**” means the termination of this Agreement:
 - (i) by the REIT pursuant to Section 7.2(c)(ii) [*Superior Proposal*]; or
 - (ii) by the Purchaser pursuant to Section 7.2(d)(ii) [*Change in Recommendation*],

in either case (A) prior to 11:59 p.m. (Edmonton Time) on the fifth Business Day following the expiry of the Go-Shop Period; or (B) as a result of, or in connection with, an Acquisition Proposal from an Excluded Party.

- (c) For the purposes of this Agreement, the “**REIT Termination Fee Event**” means the termination of this Agreement other than pursuant to a Go-Shop Fee Event:
 - (i) by the REIT, pursuant to Section 7.2(c)(ii) [*Superior Proposal*];

- (ii) by the Purchaser, pursuant to Section 7.2(d)(ii) [*Change in Recommendation*];
- (iii) by the Purchaser, pursuant to Section 7.2(d)(i) [*Breach by the REIT*] to the extent that the breach underlying such termination was a wilful breach; or
- (iv) by the REIT or the Purchaser pursuant to Section 7.2(b)(i) [*Arrangement Resolution not Approved*] or Section 7.2(b)(iii) [*Occurrence of Outside Date*] if:
 - (A) prior to such termination, a *bona fide* Acquisition Proposal is made or publicly announced, or any Person publicly announces an intention to make an Acquisition Proposal other than the Purchaser (or any Affiliate of the Purchaser); and
 - (B) within nine (9) months of such termination, the REIT enters into a definitive agreement in respect of such Acquisition Proposal referred to in 7.4(c)(iv)(A) which is subsequently completed; provided that, for the purpose of this Section 7.4(c)(iv)(B) the term “**Acquisition Proposal**” shall have the meaning ascribed to such term in Section 1.1, except that references to “20%” shall be deemed to be “50%”.
- (d) If a Termination Fee or Go-Shop Fee, as applicable, is payable by the REIT to the Purchaser pursuant to:
 - (i) Section 7.4(b)(i) or 7.4(c)(i), the Termination Fee or Go-Shop Fee, as applicable, shall be paid concurrently with the termination of this Agreement;
 - (ii) Section 7.4(b)(ii), 7.4(c)(ii) or 7.4(c)(iii), the Termination Fee or the Go-Shop Fee, as applicable, shall be paid within three (3) Business Days following the occurrence of the applicable REIT Termination Fee Event; and
 - (iii) Section 7.4(c)(iv), the Termination Fee or the Go-Shop Fee, as applicable, shall be paid concurrently with the completion of the Acquisition Proposal referred to therein,

in each case, less any applicable withholding Tax, by the REIT to the Purchaser (or as the Purchaser may direct by notice in writing), by wire transfer in immediately available funds to an account designated by the Purchaser.
- (e) Despite any other provision in this Agreement relating to the payment of fees and expenses, including the payment of fees in respect of the Formal Valuation, if a Purchaser Termination Fee Event occurs, the Purchaser shall pay to the REIT the Termination Fee in accordance with Section 7.4(g).
- (f) For the purposes of this Agreement, “**Purchaser Termination Fee Event**” means the termination of this Agreement:
 - (i) by the REIT or the Purchaser pursuant to Section 7.2(b)(iii) [*Occurrence of Outside Date*] if prior to such termination there was a breach of the

covenants contained in Section 4.3(a)(ix), which such breach caused, or materially contributed to, the Effective Time not occurring on or prior to the Outside Date; or

- (ii) by the REIT, pursuant to Section 7.2(c)(i) [*Breach by the Purchaser*] to the extent that the breach underlying such termination was a wilful breach.
- (g) If a Termination Fee is payable by the Purchaser to the REIT pursuant to 7.4(e), the Termination Fee shall be paid within three (3) Business Days following the occurrence of the Purchaser Termination Fee Event, less any applicable withholding Tax, by the Purchaser to the REIT (or as the REIT may direct by notice in writing), by wire transfer in immediately available funds to an account designated by the REIT.
- (h) The Parties acknowledge that the agreements contained in this Section 7.4 are an integral part of the transactions contemplated by this Agreement, and that without these agreements the Parties would not enter into this Agreement, and that none of the amounts set out in this Section 7.4 represent a penalty but are rather liquidated damages in a reasonable amount that will compensate the relevant Party for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the Transaction, which amount would otherwise be impossible to calculate. Each Party irrevocably waives any right it may have to raise as a defence that any of the amounts set out in this Section 7.4 such damages are excessive or punitive.
- (i) Subject to the relevant Party's rights to injunctive and other non-monetary equitable relief or specific performance in accordance with Section 8.9 to prevent breaches or threatened breaches of this Agreement and to enforce compliance with the terms of this Agreement, such Party hereby expressly acknowledges and agrees that, upon any termination of this Agreement under circumstances where it is entitled to the Termination Fee or a Go-Shop Fee, as applicable, and such Termination Fee or Go-Shop Fee, as applicable, is paid in full, the payment of such amount shall be the sole and exclusive remedy for any and all losses or damages suffered by such Party or any of its Affiliates or Representatives in connection with this Agreement or the transactions contemplated by this Agreement (and the termination thereof) and the Arrangement (and the abandonment thereof) or any matter forming the basis for such termination and following receipt of the Termination Fee or the Go-Shop Fee, as applicable, such Party shall not be entitled to bring or maintain any claim, action or proceeding against any other Party or any of their respective Affiliates arising out of or in connection with this Agreement (or the termination thereof) or the transactions contemplated herein and no other Party or any of their respective Affiliates shall have any further liability with respect to this Agreement or the transactions contemplated hereby to the Party entitled to the Termination Fee or Go-Shop Fee, as applicable, or any of its Affiliates.
- (j) If any Party fails to timely pay any amount due pursuant to this Section 7.4, it shall also pay any costs and expenses incurred by the Party entitled to the Termination Fee or Go-Shop Fee, as applicable, in connection with any legal action to enforce this Agreement that results in a judgment against such Party for the payment of any amount due pursuant to this Section 7.4, together with interest on such amount

at the prime rate of the Bank of Canada from the date such amount was required to be paid to (but excluding) the payment date.

- (k) The REIT shall not be obliged to make more than one payment of a Go-Shop Fee and/or Termination Fee pursuant to this Section 7.4. For greater certainty, if a Go-Shop Fee is payable by the REIT, no Termination Fee is payable by the REIT. For further clarity, if both a Termination Fee or Go-Shop Fee would be payable by the REIT, only the Go-Shop Fee would be required to be paid by the REIT and under no circumstance will a second or further Termination Fee be payable by the REIT.
- (l) For clarity and notwithstanding anything to the contrary contained herein, in no event will any Go-Shop Fee or Termination Fee be payable by the REIT if the circumstances giving rise to any such Go-Shop Fee or Termination Fee were caused or materially contributed to by a breach of the Purchaser's covenants in Section 4.3(a)(ix).

7.5 **Effect of Termination**

If this Agreement is terminated pursuant to Section 7.1 or Section 7.2, this Agreement shall become void and of no further force or effect without liability of any Party (or any securityholder, trustee, director, officer, employee, agent, consultant or Representative of such Party) to any other Party to this Agreement, except as otherwise contemplated hereby, and provided that (a) in the event of termination pursuant to Section 7.1 as a result of the Effective Time occurring, Section 4.8 and Article 8 shall survive for a period of six (6) years following such termination, (b) in the event of a termination pursuant to Section 7.2, the provisions of this Section 7.5, Section 2.4(e), Section 4.4(c), Section 4.5, Section 4.10, Section 7.4 and Article 8 shall survive termination.

ARTICLE 8 GENERAL PROVISIONS

8.1 **Amendment**

- (a) The Parties will each consider in good faith any amendments to the Plan of Arrangement reasonably requested by a Party from time to time prior to the Effective Date, provided that no such amendment (i) is inconsistent with the Interim Order, the Final Order or this Agreement, (ii) is prejudicial to Unitholders or (iii) creates a reasonable risk of delaying, impairing or impeding in any material respect the receipt of any Regulatory Approval or the satisfaction of any other conditions set forth in Article 5.
- (b) This Agreement and the Plan of Arrangement may, at any time and from time to time before or after the holding of the Meeting but not later than the Effective Time, be amended by mutual written agreement of the Parties, and any such amendment may, subject to the Interim Order and Final Order and Law, without limitation:
 - (i) change the time for performance of any of the obligations or acts of the Parties;
 - (ii) waive any inaccuracies or modify any representation or warranty contained in this Agreement or in any document delivered pursuant to this Agreement;

- (iii) waive compliance with or modify any of the covenants herein contained and waive or modify performance of any of the obligations of the Parties; and/or
- (iv) waive compliance with or modify any mutual conditions precedent herein contained.

8.2 **Waiver**

No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right.

8.3 **Expenses**

- (a) Except as expressly otherwise provided in this Agreement, all out-of-pocket third-party transaction costs and expenses incurred in connection with this Agreement and the Plan of Arrangement and the transactions contemplated hereunder and thereunder shall be paid by the Party incurring such expenses, whether or not the Arrangement is consummated.
- (b) The Purchaser shall reimburse the REIT for its costs incurred in connection with the Formal Valuation in accordance with Section 4.3(a)(i).

8.4 **Notices**

- (a) Other than the oral notice provided for in Section 6.3(a)(i), any notice, consent or other communication given regarding the matters contemplated by this Agreement must be in writing, sent by personal delivery, courier or electronic mail and addressed:

to the REIT:

Melcor Real Estate Trust
900, 10310 Japer Avenue
Edmonton, Alberta T5J 1Y8

Attention: Richard Kirby, Chair of the Special Committee
[REDACTED]

with a copy to (which shall not constitute notice):

DLA Piper (Canada) LLP
Suite 1000, Livingston Place West
250 2nd St SW
Calgary, Alberta T2P 0C1

Attention: Ian W. Reynolds and Jarrod Isfeld
Email: [REDACTED]

to the Purchaser:

Melcor Developments Ltd.
900, 10310 Japer Avenue
Edmonton, Alberta T5J 1Y8

Attention: Naomi Stefura
[REDACTED]

with a copy to (which shall not constitute notice):

Bryan & Company LLP
2900 Manulife Place
10180-101 Street
Edmonton, AB T5J 3V5

Attention: Robert J. Bruggeman
[REDACTED]

- (b) Any notice or other communication is deemed to be given and received if sent by personal delivery, same day courier or electronic mail, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (Edmonton time) and otherwise on the next Business Day. A Party may change its address for service from time to time by providing a notice in accordance with the foregoing. Any subsequent notice or other communication must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a notice will be assumed not to be changed. Sending a copy of a notice or other communication to a Party's outside legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to outside legal counsel does not invalidate delivery of that notice or other communication to a Party.

8.5 **Severability**

To the extent permitted by Law, the Parties waive any provision of Law which renders any provision of this Agreement invalid or unenforceable in any respect. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other conditions and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated by this Agreement are not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated by this Agreement are fulfilled to the fullest extent possible.

8.6 **Entire Agreement**

This Agreement, including the Schedules hereto, constitutes the entire agreement between the Parties with respect to the transactions contemplated by this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in

connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The Parties have not relied and are not relying on any other information, discussions or understanding in entering into and completing the transactions contemplated by this Agreement.

8.7 **Successors and Assigns**

This Agreement becomes effective only when executed by the REIT, the GP and the Purchaser. After that time, it will be binding upon and enure to the benefit of the REIT, the GP and the Purchaser and their respective successors and permitted assigns. This Agreement nor any of the rights or obligations under this Agreement are assignable or transferable by any Party without the prior written consent of the other Parties. No assignment shall relieve the assigning party of any of its obligations under this Agreement.

8.8 **Governing Law**

This Agreement shall be governed in all respects, including validity, interpretation and effect, by the Laws of the Province of Alberta and the federal Laws of Canada applicable therein. Each Party irrevocably attorns and submits to the exclusive jurisdiction of the Alberta courts situated in Edmonton, Alberta in respect of all matters arising under and in relation to this Agreement and the Arrangement and waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum.

8.9 **Injunctive Relief**

- (a) The Parties agree that (i) irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that a Party does not perform any of the provisions of this Agreement in accordance with their specific terms (including failing to take such actions as are required of it hereunder to consummate the Arrangement or the transactions contemplated by this Agreement) or otherwise breaches such provisions. Accordingly, the Parties acknowledge and agree that they shall be entitled to specific performance of the terms of this Agreement and an injunction or injunctions and other equitable relief to prevent and/or remedy breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement without any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief hereby being waived. None of the Parties will oppose the granting of an injunction, specific performance or other equitable relief on the basis that there exists an adequate remedy at Law or that an award of specific performance is not an appropriate remedy for any reason at Law or in equity.
- (b) Notwithstanding anything to the contrary in this Agreement, it is acknowledged and agreed that the Purchaser's obligation to consummate the Arrangement and the other transactions contemplated by this Agreement, and the REIT's right to specifically enforce such obligations as set out in Section 8.9(a) shall be subject to the requirement that: (i) all conditions in Sections 5.1 and 5.2 have been satisfied or waived by the applicable Party or Parties for whose benefit such conditions exist (excluding conditions that, by their terms, can only be satisfied at the Effective Time, but that are reasonably capable of being satisfied at the Effective Time); (ii) the Purchaser fails to consummate the Arrangement on the date on which the Effective Date should have occurred pursuant to Section 2.8; and (iii) the REIT and

the GP have jointly irrevocably confirmed that, if specific performance is granted, they are ready, willing and able to consummate the Arrangement.

- (c) Notwithstanding anything to the contrary in this Agreement, it is acknowledged and agreed that the obligation of the REIT and the GP to consummate the Arrangement and the other transactions contemplated by this Agreement, and the Purchaser's right to specifically enforce such obligations as set out in Section 8.9(a) shall be subject to the requirement that: (i) all conditions in Sections 5.1 and 5.3 have been satisfied or waived by the applicable Party or Parties for whose benefit such conditions exist (excluding conditions that, by their terms, can only be satisfied at the Effective Time, but that are reasonably capable of being satisfied at the Effective Time); (ii) the REIT and the GP fail to consummate the Arrangement on the date on which the Effective Date should have occurred pursuant to Section 2.8; and (iii) the Purchaser has confirmed that, if specific performance is granted, it is ready, willing and able to consummate the Arrangement.
- (d) The Parties further agree (i) the seeking of remedies pursuant to Section 8.9(a) shall not in any respect constitute a waiver by a Party of its right to seek any other form of relief that may be available to it under this Agreement, including under Section 7.4, in the event that this Agreement has been terminated or in the event that the remedies provided for in Section 8.9(a) are not available or otherwise not granted, and (ii) nothing set forth in this Agreement shall require a Party to institute any proceeding for (or limit a Party's right to institute any proceeding for) specific performance under this Section 8.9 prior or as a condition to exercising any termination right under Section 7.2 (and pursuing damages or payment of the Termination Fee or Go-Shop Fee after such termination), nor shall the commencement of any legal proceeding by a Party seeking remedies pursuant to Section 8.9(a) or anything set forth in this Section 8.9 restrict or limit such Party's right to terminate this Agreement in accordance with the terms of Section 7.2 or pursue any other remedies under this Agreement that may be available then or thereafter. Notwithstanding the foregoing, under no circumstances shall the (i) Purchaser, directly or indirectly, be permitted or entitled to receive both a grant of specific performance to enforce the REIT's and the GP's obligations to consummate the Arrangement and payment of the Termination Fee or Go-Shop Fee, as applicable, or (ii) the REIT, directly or indirectly, be permitted or entitled to receive both a grant of specific performance to enforce the Purchaser's obligation to consummate the Arrangement and payment of a Termination Fee.
- (e) If, prior to the Outside Date, any Party brings any action in accordance with this Section 8.9 to enforce specifically the performance of the terms and provisions hereby by any other Party, the Outside Date shall automatically be extended (i) for the period during which such action is pending, plus twenty (20) Business Days, or (ii) by such other time period established by the court presiding over such action, as the case may be.

8.10 **Third Party Beneficiaries**

- (a) Except for (i) the rights of the Unitholders to receive the applicable Consideration following the Effective Time pursuant to the Plan of Arrangement in the event that the Arrangement is completed, and (ii) the Indemnified Persons as provided in Section 4.8, the Parties intend that this Agreement will not benefit or create any right or cause of action in favour of any Person, other than the Parties and that no

Person, other than the Parties, shall be entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum.

- (b) Despite the foregoing the Purchaser acknowledges to each of the Indemnified Persons his or her direct rights against the Purchaser under Section 4.8 of this Agreement, which are intended for the benefit of, and shall be enforceable by, each Indemnified Person, his or her heirs and his or her legal representatives, and for such purpose, the REIT confirms that it is acting as trustee on their behalf, and agrees to enforce such provisions on their behalf.

8.11 **Rules of Construction**

The Parties to this Agreement waive the application of any Law or rule of construction providing that ambiguities in any agreement or other document shall be construed against the party drafting such agreement or other document.

8.12 **No Liability**

Except in the case of fraud, no director, officer or partner of the Purchaser shall have any personal liability whatsoever to the REIT and the GP under this Agreement or any other document delivered in connection with the transactions contemplated by this Agreement on behalf of the Purchaser. Except in the case of fraud, no trustee or officer of the REIT or any of its Subsidiaries shall have any personal liability whatsoever to the Purchaser under this Agreement or any other document delivered in connection with the transactions contemplated by this Agreement on behalf of the REIT or any of its Subsidiaries.

8.13 **Time of Essence**

Time shall be of the essence in this Agreement.

8.14 **Further Assurances**

Subject to the provisions of this Agreement, the Parties will, from time to time, do all acts and things and execute and deliver all such further documents and instruments, as the other Party may, either before or after the Effective Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement and, in the event the Arrangement becomes effective, to document or evidence any of the transactions or events set out in the Plan of Arrangement.

8.15 **No Liability**

The Parties acknowledge and agree that the obligations and liabilities under this Agreement, or in any document delivered in connection therewith, are not personally binding upon and resort shall not be had to, nor shall recourse or satisfaction be sought from the private property of any of the shareholders, constituent members, limited partners, unitholders, annuitants under a plan of which a unitholder of a Party acts as a trustee or carrier, or the officers, directors, trustees, employees or agents of a Party hereto but only the property of the Parties hereto shall be bound.

8.16 **Counterparts**

This Agreement may be executed in any number of counterparts (including counterparts by executed electronic copy) and all such counterparts taken together shall be

deemed to constitute one and the same instrument. The Parties agree that electronic signatures (including via DocuSign) will have the same legal effect as original signatures and that the Parties shall be entitled to rely upon delivery of an executed electronic copy of this Agreement, and such executed electronic copy shall be legally effective to create a valid and binding agreement between the Parties, and that an electronic, scanned, or duplicate copy of any signatures will be deemed an original and may be used as evidence of execution.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF the Parties have executed this Agreement.

MELCOR DEVELOPMENTS LTD.

By: (signed) "Tim Melton"

Name: Tim Melton
Title: Chair and Chief Executive Officer

By: (signed) "Naomi Stefura"

Name: Naomi Stefura
Title: Chief Operating Officer and Chief Financial Officer

MELCOR REAL ESTATE INVESTMENT TRUST

By: (signed) "Andy Melton"

Name: Andy Melton
Title: Trustee

By: (signed) "Naomi Stefura"

Name: Naomi Stefura
Title: Chief Financial Officer

MELCOR REIT GP INC.

By: (signed) "Andy Melton"

Name: Andy Melton
Title: President and CEO

By: (signed) "Naomi Stefura"

Name: Naomi Stefura
Title: Chief Financial Officer

Schedule A
PLAN OF ARRANGEMENT

**SCHEDULE A
PLAN OF ARRANGEMENT**

**PLAN OF ARRANGEMENT UNDER SECTION 193
OF THE BUSINESS CORPORATIONS ACT (ALBERTA)**

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

Unless indicated otherwise, where used in this Plan of Arrangement, capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Arrangement Agreement and the following terms shall have the following meanings (and grammatical variations of such terms shall have corresponding meanings):

“**ABCA**” means the *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended, including the regulations promulgated thereunder.

“**Arrangement**” means an arrangement under section 193 of the ABCA in accordance with the terms and subject to the conditions set out in this Plan of Arrangement, subject to any amendments or variations to this Plan of Arrangement made in accordance with the terms of this Arrangement Agreement, this Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of the Purchaser and the REIT, each acting reasonably.

“**Arrangement Agreement**” means the arrangement agreement between the Purchaser, the GP and the REIT dated September 12, 2024, including the schedules thereto, as amended, supplemented or otherwise modified from time to time in accordance with its terms.

“**Arrangement Resolution**” means the special resolution of the Unitholders and Special Voting Unitholders approving the Plan of Arrangement to be considered at the Meeting, substantially in the form of Schedule B attached to the Arrangement Agreement.

“**Articles of Arrangement**” means the articles of arrangement of the GP in respect of the Arrangement required by the ABCA to be sent to the Registrar after the Final Order has been granted, giving effect to the Arrangement, which shall include this Plan of Arrangement and otherwise be in a form and content satisfactory to the REIT and the Purchaser, each acting reasonably.

“**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which major banks are closed for business in Edmonton, Alberta.

“**Certificate of Arrangement**” means the proof of filing to be issued by the Registrar pursuant to Subsection 193(11) of the ABCA in respect of the Articles of Arrangement.

“**Circular**” means the notice of the Meeting and accompanying management information circular, including all schedules, appendices and exhibits to, and information incorporated by reference in, such management information circular, to be sent to Unitholders and Special Voting Unitholders in connection with the Meeting, as amended, supplemented or otherwise modified from time to

time in accordance with the terms of the Arrangement Agreement and the Interim Order (once issued).

“Class A LP Unit” means a Class A voting LP Unit of the Limited Partnership.

“Class A LP Unit Consideration” means an amount equal to (i) the Consideration multiplied by the Class A LP Units outstanding immediately prior to the Effective Time, minus (ii) the cash portion of the GP Share Consideration.

“Consideration” means an amount equal to (i) four dollars and ninety-five cents (\$4.95) per Outstanding Unit, minus (ii) the Pre-Arrangement Distribution (if any) per Outstanding Unit.

“Constating Documents” means articles of incorporation, amalgamation, or continuation, as applicable, by-laws, limited partnership agreement, declaration of trust or other constating documents and all amendments thereto.

“Court” means the Court of King’s Bench of Alberta.

“Debenture Indenture” means the trust indenture entered into between the REIT and Valiant Trust Company dated December 3, 2014, as supplemented by a first supplemental indenture between the REIT, Valiant Trust Company and AST Trust Company dated September 25, 2015, as supplemented by a second supplemental indenture between the REIT and AST Trust Company dated December 3, 2017, as supplemented by a third supplemental indenture between the REIT and AST Trust Company dated October 29, 2019, as supplemented by a fourth supplemental indenture between the REIT, the Depository and TSX Trust Company dated May 10, 2022.

“Debenture Proceeds Note” means the promissory note, in the principal amount of \$46.0 million issued by the Limited Partnership to the REIT and dated October 29, 2019.

“Debenture Repayment Amount” means an amount equal to the aggregate principal amount of Debentures outstanding on the Effective Date, if any, excluding any and all accrued but unpaid interest thereon, payable by the REIT in connection with the redemption in full of the Debentures on the Effective Date in accordance with the terms of the Debenture Indenture.

“Debentures” means the 5.10% convertible unsecured subordinated debentures of the REIT due December 31, 2024 issued pursuant to the Debenture Indenture.

“Declaration of Trust” means the Amended and Restated Declaration of Trust of the REIT dated as of May 1, 2013, as further amended from time to time, which is governed by the laws of the Province of Alberta.

“Depository” means Odyssey Trust Company, in its capacity as depository for the Arrangement, or such other Person as the REIT and the Purchaser agree to engage as depository for the Arrangement.

“Dissent Rights” has the meaning specified in Section 3.1 of this Plan of Arrangement.

“Dissenting Holder” means a registered holder of Units who has properly exercised its Dissent Rights in accordance with Section 3.1 of this Plan of Arrangement and has not withdrawn or been deemed to have withdrawn such exercise of Dissent Rights and who is ultimately determined to

be entitled to be paid the fair value of its Units but only in respect of Units in respect of which Dissent Rights are validly exercised by such registered holder.

“Effective Date” means the date shown on the Certificate of Arrangement giving effect to the Arrangement.

“Effective Time” means 12:01 a.m. (Edmonton time) on the Effective Date, or such other time on the Effective Date as the Parties agree to in writing before the Effective Date.

“Encumbrance” includes any mortgage, pledge, hypothec, charge, prior claim, security interest, encroachment, option, right of first refusal or first offer, restrictive covenant, assignment, lien (statutory or otherwise), defect of title or encumbrance of any kind.

“Exchange Agreement” means the exchange agreement dated May 1, 2013 among the REIT, the Limited Partnership and the Purchaser, pursuant to which the Purchaser or the REIT may cause the Class B non-voting LP Units of the Limited Partnership to be exchanged for Units.

“Final Order” means the final order of the Court approving the Arrangement under section 193(4) of the ABCA in a form acceptable to the REIT and the Purchaser, each acting reasonably, as such order may be amended, supplemented or varied by the Court (with the consent of both the REIT and the Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is acceptable to both the REIT and the Purchaser, each acting reasonably) on appeal.

“GP” means Melcor REIT GP Inc.

“GP Shares” means all issued and outstanding shares in the share capital of the GP.

“GP Share Consideration” means sixteen hundred and twenty-two dollars and one cent (\$1,622.01) in the aggregate.

“Interim Order” means the interim order of the Court in a form acceptable to the REIT and the Purchaser, each acting reasonably, providing for, among other things, the calling and holding of the Meeting, as such order may be amended, modified, supplemented or varied by the Court (with the consent of the REIT and the Purchaser, each acting reasonably).

“Law” means any applicable laws, including federal, national, multinational, provincial, state, municipal, regional and local laws (statutory, common or otherwise), constitutions, treaties, conventions, by-laws, statutes, rules, regulations, principles of law and equity, orders, rulings, certificates, ordinances, judgments, injunctions, determinations, awards, decrees, legally binding codes or other requirements, whether domestic or foreign, and the terms and conditions of any applicable grant of approval, permission, authority or license or other similar requirement of any Regulatory Authority.

“Letter of Transmittal” means the letter of transmittal, if so required by the Depositary, to be sent by the REIT to Unitholders in connection with the Arrangement.

“Limited Partnership” means Melcor REIT Limited Partnership.

“Limited Partnership Agreement” means the Amended and Restated Limited Partnership Agreement concerning the Limited Partnership among, *inter alios*, the Purchaser, the REIT and the GP dated May 1, 2013, as further amended from time to time.

“Meeting” means the special meeting of Unitholders and Special Voting Unitholders, including any adjournment or postponement of such special meeting in accordance with the terms of the Arrangement Agreement, to be called and held in accordance with the Interim Order to consider and, if thought fit, approving (i) the Arrangement Resolution, (ii) all other matters requiring approval pursuant to the terms and conditions of the Arrangement Agreement or the Interim Order, and (iii) any other matter set out in the Circular and agreed to in writing by the REIT and the Purchaser in accordance with the Arrangement Agreement.

“Outstanding Unit” means a Unit outstanding immediately following the distribution and consolidation contemplated in Section 2.3(c).

“Parties” means the REIT, the GP and the Purchaser.

“Person” means an individual, general partnership, limited partnership, association, body corporate, organization, trust, estate, trustee, executor, administrator or other legal representative, government (including a Regulatory Authority), or other entity, whether or not having legal status.

“Plan of Arrangement” means this Plan of Arrangement proposed under section 193 of the ABCA, and any amendments or variations made in accordance with Section 8.1 of the Arrangement Agreement or Section 6.1 of this Plan of Arrangement or made at the direction of the Court in the Final Order with the prior written consent of the REIT, the GP and the Purchaser, each acting reasonably.

“Pre-Arrangement Distribution” means a distribution declared by the REIT during the period between the date of the Arrangement Agreement and immediately prior to the Effective Time payable to Unitholders, excluding the Special Distribution and a distribution of the REIT’s Taxable Income payable by issuance of Units which are immediately consolidated so that the number of Units following such distribution is no greater than the number of Units prior to such distribution.

“Purchaser” means Melcor Developments Ltd.

“Registrar” means the Registrar of Corporations for the Province of Alberta duly appointed pursuant to Section 263 of the ABCA.

“Regulatory Authority” means any (i) international, multinational, federal, national, provincial, state, regional, municipal, local or other government, governmental or public department, ministry, central bank, court, tribunal, arbitral body, office, Crown corporation, commission, board, bureau or agency, domestic or foreign, (ii) subdivision, agent or authority of any of the foregoing, or (iii) quasi-governmental or private body, including any tribunal, commission, stock exchange (including the TSX), regulatory agency or self-regulatory organization having or purporting to have jurisdiction in the relevant circumstances.

“REIT” means Melcor Real Estate Investment Trust.

“Released Parties” means the REIT, the Special Committee, the GP, the Limited Partnership, the Purchaser and their respective present and former directors, officers, trustees, employees, auditors, financial advisors, legal counsel and agents.

“Special Committee” means the independent committee consisting of independent members of the Board formed to consider, among other things, the Arrangement and the other transactions contemplated by the Arrangement Agreement.

“Special Distribution” means a distribution in an amount equal to the REIT’s good faith estimate of the Taxable Income, including taxable income to be allocated from the Limited Partnership to the REIT pursuant to the Limited Partnership Agreement for the REIT’s taxation year in which the Effective Date occurs, reduced by any deductions under subsection 104(6) of the Tax Act in respect of REIT distributions made prior to the Effective Time.

“Special Voting Unit” means a non-participating special voting unit of the REIT issued pursuant to, and having the attributes described in, the Declaration of Trust.

“Special Voting Unitholders” means the holders of the Special Voting Units.

“Tax Act” means the Income Tax Act (Canada), R.S.C., 1985, c. 1 (5th Supp.) and the regulations made thereunder, as now in effect and as they may be promulgated or amended from time to time.

“Taxable Income” means income (including net realized capital gains) determined in accordance with the Tax Act (read without reference to subsection 104(6)) of the Tax Act).

“TSX” means the Toronto Stock Exchange.

“Unit” means a participating trust unit of interest in the REIT issued pursuant to the Declaration of Trust and having the attributes described therein.

“Unitholders” means the registered or beneficial holders of the Units.

1.2 Certain Rules of Interpretation

In this Plan of Arrangement, unless otherwise specified:

- (a) **Headings, etc.** The division of this Plan of Arrangement into Articles and Sections and the insertion of headings are for convenient reference only and do not affect the construction or interpretation of this Plan of Arrangement.
- (b) **Currency.** All references to dollars or to \$ are references to Canadian dollars.
- (c) **Gender and Number.** Any reference to gender includes all genders. Words importing the singular number only include the plural and vice versa.
- (d) **Certain Phrases, etc.** Wherever the word “including,” “includes” or “include” is used in this Plan of Arrangement, it shall be deemed to be followed by the words “without limitation”. The word “or” shall be disjunctive but not exclusive. The phrase “the aggregate of,” “the total of,” “the sum of” or a phrase of similar meaning means

“the aggregate (or total or sum), without duplication, of.” Unless the context otherwise requires, references herein to a Person in a particular capacity or capacities shall exclude such Person in any other capacity.

- (e) **Statutes.** Any reference to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted, unless stated otherwise.
- (f) **Computation of Time.** A period of time is to be computed as beginning on the day following the event that began the period and ending at 4:30 p.m. on the last day of the period, if the last day of the period is a Business Day, or at 4:30 p.m. on the next Business Day if the last day of the period is not a Business Day. If the date on which any action is required or permitted to be taken under this Plan of Arrangement by a Person is not a Business Day, such action shall be required or permitted to be taken on the next succeeding day which is a Business Day.
- (g) **Time References.** References to time are to local time, Edmonton, Alberta. Time shall be of the essence in every matter or action contemplated hereunder.

ARTICLE 2 THE ARRANGEMENT

2.1 Arrangement Agreement

This Plan of Arrangement is made pursuant to and subject to the provisions of the Arrangement Agreement.

2.2 Binding Effect

This Plan of Arrangement and the Arrangement will become effective at, and be binding at and after, the times referred to in Section 2.3 of this Plan of Arrangement on: (a) the REIT, (b) the GP; (c) the Purchaser, (d) all Unitholders (including Dissenting Holders), (e) the Depositary, and (f) all other Persons, in each case without any further act or formality required on the part of any Person.

2.3 Arrangement

Commencing at the Effective Time each of the following events shall occur and shall be deemed to occur sequentially as set out below without any further authorization, act or formality, in each case, unless stated otherwise, effective as at five-minute intervals starting at the Effective Time:

- (a) The Constatng Documents of each of the REIT, the GP and the Limited Partnership shall be amended to the extent necessary to facilitate the Arrangement and the implementation of the steps and transactions contemplated herein. Without limiting the generality of the foregoing, such amendments shall include, among other things, the amendments to permit payment of the Special Distribution as provided in this Plan of Arrangement, the creation of redemption rights under the Declaration of Trust permitting the REIT to redeem the Units as provided in this Plan of Arrangement, and the Declaration of Trust shall be deemed amended to include the following provision:

- (i) “Notwithstanding any other provision of this Declaration of Trust, where tax is required to be withheld from a Unitholder’s share of a distribution payable by the issuance of additional Units which are immediately consolidated, unless otherwise determined by the Trustees, the consolidation will result in such Unitholder holding that number of Units equal to (i) the number of Units held by such Unitholder prior to the distribution plus the number of Units received by such Unitholder in connection with the distribution (net of the number of whole and part Units withheld on account of withholding taxes) multiplied by (ii) the fraction obtained by dividing the aggregate number of Units outstanding prior to the distribution by the aggregate number of Units that would be outstanding following the distribution and before the consolidation if no Units were withheld. If required by the REIT or its transfer agent, such Unitholder shall surrender the Unit certificates, if any, representing such Unitholder’s original Units in exchange for a Unit certificate representing such Unitholder’s post-consolidation Units or direct such other evidence, including a book entry, of its Units be amended to reflect such Unitholder’s post-consolidation Units.
- (b) The Limited Partnership Agreement shall be deemed amended to reflect that Income for Tax Purposes (as such term is defined in the Limited Partnership Agreement) of the Limited Partnership attributable to the period beginning at the start of its current fiscal year and ending on the Effective Time shall be allocated to the holders of partnership units immediately prior to the Effective Time, such that the REIT will be allocated its proportionate share of such income notwithstanding that the REIT will not be a limited partner of the Limited Partnership at the end of such fiscal year;
- (c) The REIT shall be deemed to have distributed the Special Distribution to Unitholders (including Dissenting Holders) of record immediately before the Effective Time in the form of additional Units having a fair market value equal to the amount of the Special Distribution. Such Units are deemed to have been issued and delivered to such Unitholders. Immediately following such distribution of Units, all the Units shall be deemed to have been consolidated so that each Unitholder will hold after the consolidation the same number of Units as the Unitholder held before the Special Distribution, subject to Section 2.3(a)(i). Subject to Section 2.3(a)(i), each Unit certificate or book entry (or other non-certificated evidence of ownership) representing the number of Units prior to the distribution of additional Units is deemed to represent the same number of Units after the non-cash distribution of additional Units and the consolidation;
- (d) The Limited Partnership shall be deemed to borrow from the Purchaser an amount equal to the Debenture Repayment Amount and the Limited Partnership shall be deemed to have directed payment of such loan amount to the REIT in final satisfaction of amounts owing pursuant to the Debenture Proceeds Note. Payment of an amount equal to the Debenture Repayment Amount by the Purchaser to the Depository, as trustee under the Debenture Indenture, to be held pending further direction from the REIT, shall constitute the advance of the loan from the

Purchaser to the Limited Partnership and repayment of the Debenture Proceeds Note in full.

- (e) Each GP Share outstanding immediately prior to the Effective Time shall be deemed to have been transferred, without any further act or formality by or on behalf of the REIT or the GP, to the Purchaser in consideration for the GP Share Consideration, and:
- (i) the REIT shall cease to be the holder of such GP Shares and to have any rights as holder of such GP Shares other than the right to be paid the GP Share Consideration by the Purchaser in accordance with this Plan of Arrangement;
 - (ii) the REIT's name shall be removed from the register of the GP Shares maintained by or on behalf of the GP; and
 - (iii) the Purchaser shall be deemed to be the transferee of such GP Shares (free and clear of all Encumbrances), and shall be entered in the register of the GP Shares maintained by or on behalf of the GP;

The GP Share Consideration will be paid by assumption by the Purchaser of one cent (\$0.01) owing by the REIT to the GP and payment in cash of sixteen hundred twenty two dollars and one cent (\$1,622.01) to the Depository to be held for further direction by the REIT.

- (f) Each Class A LP Unit outstanding immediately prior to the Effective Time shall be deemed to have been transferred, without any further act or formality by or on behalf of the REIT or the GP, to the Purchaser in consideration for the Class A LP Unit Consideration, and:
- (i) the REIT shall cease to be the holder of such Class A LP Units and to have any rights as holder of such Class A LP Units other than the right to be paid the Class A LP Unit Consideration by the Purchaser in accordance with this Plan of Arrangement;
 - (ii) the REIT's name shall be removed from the register of the Class A LP Units maintained by or on behalf of the Limited Partnership; and
 - (iii) the Purchaser shall be deemed to be the transferee of such Class A LP Units (free and clear of all Encumbrances), and shall be entered in the register of Class A LP Units maintained by or on behalf of the Limited Partnership;

The Class A LP Unit Consideration will be paid in cash to the Depository to be held for further direction by the REIT.

- (g) Each of the Outstanding Units held by Dissenting Holders in respect of which Dissent Rights have been validly exercised shall be deemed to have been redeemed, without any further act or formality by or on behalf of the Dissenting Holders, by the REIT in consideration for a claim against the REIT for the amount determined under Article 3 of this Plan of Arrangement, and:

- (i) such Dissenting Holders shall cease to be the registered holders of such Units and to have any rights as holders of such Units other than the right to be paid fair value by the Purchaser for such Units as set out in Article 3 of this Plan of Arrangement;
 - (ii) such Dissenting Holders' names shall be removed as the holders of such Units from the register of Units maintained by or on behalf of the REIT; and
 - (iii) the REIT shall be deemed to be the transferee of such Units (free and clear of all Encumbrances) and such Units shall thereupon be cancelled.
- (h) Each Outstanding Unit, other than Units held by a Dissenting Holder in respect of which Dissent Rights have been validly exercised, shall be deemed to have been redeemed by the REIT, without any further act or formality by or on behalf of the Unitholder, in consideration for the Consideration, and:
- (i) the holders of such Units shall cease to be the holders of such Units and to have any rights as holders of such Units other than the right to be paid the Consideration by the Purchaser in accordance with this Plan of Arrangement;
 - (ii) such holders' names shall be removed from the register of the Units maintained by or on behalf of the REIT; and
 - (iii) the REIT shall be deemed to be the transferee of such Units (free and clear of all Encumbrances), and such Units shall thereupon be cancelled.

The Consideration will be paid using funds held by the Depositary for further direction by the REIT representing the cash portion of the GP Share Consideration and the Class A LP Unit Consideration paid by the Purchaser.

- (i) The Depositary shall be deemed to have been directed to pay the following amounts utilizing the GP Share Consideration and LP Unit Consideration held by the Depositary in accordance with Section 4.1:
 - (i) to the REIT, an amount equal to the Consideration that would have been received by the Dissenting Holders if they had not exercised their Dissent Rights;
 - (ii) to each Unitholder, an amount equal to the Consideration multiplied by the number of Units redeemed by the REIT pursuant to subsection 2.3(h), other than Units held by a Dissenting Holder in respect of which Dissent Rights have been validly exercised; and
 - (iii) to the REIT or such other Person(s) responsible for remitting any withholding taxes required to be withheld in connection with this Plan of Arrangement an amount equal to such withholding taxes.
- (j) The Special Voting Units shall be deemed converted into Units of the REIT on a one-for-one basis and the Exchange Agreement shall be deemed terminated.
- (k) The releases in Article 5 shall become effective.

ARTICLE 3 RIGHTS OF DISSENT

3.1 Rights of Dissent

A registered holder of Units may exercise rights of dissent (“**Dissent Rights**”) in connection with the Arrangement pursuant to and in the manner set forth in the Interim Order, as modified by this Article 3 and the Final Order, provided that notwithstanding any provisions of the Declaration of Trust, the written objection to the Arrangement Resolution must be received by the REIT no later than 5:00p.m. two Business Days immediately preceding the date of Meeting (as it may be adjourned or postponed from time to time). The Units held by the Dissenting Holders who duly and validly exercise their Dissent Rights shall be redeemed by the REIT as provided in Section 2.3(g) and if they are:

- (a) ultimately entitled to be paid fair value for such Units, a Dissenting Holder shall: (i) in respect of such Units be treated as not having participated in the transactions in Section 2.3 (other than Section 2.3(c) and Section 2.3(g)), (ii) be entitled to be paid, subject to Section 4.3, the fair value of such Units by the REIT, which fair value shall be determined as of the close of business on the day before the Arrangement Resolution was adopted at the Meeting, and (iii) not be entitled to any other payment or consideration, including that would be payable under the Arrangement had such Dissenting Holders not exercised their Dissent Rights in respect of such Units; or
- (b) ultimately not entitled, for any reason, to be paid such fair value for such Units, shall be deemed to have participated in the Arrangement with respect to such Units, as of the Effective Time, on the same basis as a non-Dissenting Holder to which Section 2.3 of this Plan of Arrangement applies.

If a Unitholder exercises Dissent Rights with respect to Units which are, pursuant to Section 2.3(a)(i), consolidated into a lesser number of Units, the Dissent Rights shall be deemed for all purposes of this Plan of Arrangement exercised with respect to such lesser number of Units.

3.2 Recognition of Dissenting Holders

In no circumstances shall the Purchaser, the REIT, the GP or any other Person be required to recognize a Person exercising Dissent Rights unless such Person is the registered holder of those Units in respect of which such rights are sought to be exercised. For greater certainty, in no case shall the Purchaser, the REIT, the GP or any other Person be required to recognize a Dissenting Holder as a holder of Units in respect of which Dissent Rights have been validly exercised after the completion of the transfers in the steps in Section 2.3(g) and the names of such Dissenting Holder shall be removed from the registers of holders of the Units in respect of which Dissent Rights have been validly exercised at the same time as the event in Section 2.3(g) occurs. In addition to any other restrictions in the Declaration of Trust as applicable under the Interim Order, none of the following shall be entitled to exercise Dissent Rights: (i) any Person who has voted, or has instructed a proxyholder to vote, in favour of the Arrangement (but only in respect of such Units) and (ii) Special Voting Unitholders.

ARTICLE 4
CERTIFICATES AND PAYMENTS

4.1 Payment and Delivery of Consideration

- (a) Prior to the sending by the GP of the Articles of Arrangement to the Registrar, the Purchaser shall deposit, or arrange to be deposited, in accordance with the terms and conditions of the Arrangement Agreement for the benefit of the REIT, cash equal to the sum of: (i) the Class A LP Unit Consideration; (ii) cash portion of the GP Share Consideration; and (iii) the Debenture Repayment Amount, if any.
- (b) Following the deposit of such amount with the Depositary:
 - (i) the Purchaser will be fully and completely discharged from its obligation to pay the Class A LP Unit Consideration and the cash portion of GP Share Consideration to the REIT;
 - (ii) the REIT will be fully and completely discharged from its obligation to pay the Unitholders (other than in respect of the right of Dissenting Holders to be paid fair value as herein provided for the Units in respect of which Dissent Rights have been validly exercised), and the rights of such holders will be limited to receiving, from the Depositary, the Consideration to which they are entitled in accordance with this Plan of Arrangement; and
 - (iii) the Purchaser shall be deemed to have advanced a loan to the Limited Partnership in an amount equal to the Debenture Repayment Amount; and
 - (iv) the Limited Partnership shall be deemed to have repaid the Debenture Proceeds Note to the REIT in full.
- (c) Promptly following the Effective Time, the Depositary shall pay to the REIT, an amount equal to the Consideration that would have been received by the Dissenting Holders if they had not exercised their Dissent Rights.
- (d) Promptly following the Effective Time, the Depositary shall pay to the REIT or such other Person(s) responsible for remitting withholding taxes required to withheld in connection with this Plan of Arrangement an amount equal to such withholding taxes.
- (e) The funds held by the Depositary representing the Debenture Repayment Amount shall be held and disbursed by the Depositary in accordance with the Debenture Indenture (including any applicable redemption notice) or as otherwise directed by the REIT.
- (f) Upon surrender to the Depositary for cancellation of a certificate, or other direction to the Depositary for cancellation of a book entry or other evidence of ownership of Units, which immediately prior to the Effective Time represented Outstanding Units that were transferred pursuant to Section 2.3, together with a duly completed and executed Letter of Transmittal, if required by the Depositary, and such additional documents and instruments as the Depositary may reasonably require, the Unitholder(s) represented by such surrendered certificate, book entry or other

non-certificated evidence of ownership shall be entitled to receive in exchange therefor, and the Depositary shall deliver to such holder, as soon as practicable, a cheque (or other form of immediately available funds) representing the cash which such holder has the right to receive under this Plan of Arrangement for such Units, less any amounts withheld pursuant to Section 4.3 of this Plan of Arrangement, and any certificate, book entry or other non-certificated evidence of ownership representing Units so surrendered shall forthwith be cancelled.

- (g) After the Effective Time and until surrendered for cancellation as contemplated by this Section 4.1, each certificate or book entry (or other non-certificated evidence of ownership) that immediately prior to the Effective Time represented Units (other than Units in respect of which Dissent Rights have been validly exercised and not withdrawn), shall be deemed after the Effective Time to represent only the right to receive upon such surrender a cash payment in lieu of such certificate or book entry (or other non-certificated evidence of ownership) as contemplated in this Section 4.1, less any amounts withheld pursuant to Section 4.3 of this Plan of Arrangement. Any such certificate or book entry (or other non-certificated evidence of ownership) formerly representing Units not duly surrendered on or before the sixth anniversary of the Effective Date shall cease to represent a claim by or interest of any former Unitholder of any kind or nature against or in the REIT or the Purchaser. On such date, all cash to which such former Unitholder was entitled shall be deemed to have been surrendered to the REIT and shall be paid over by the Depositary to the REIT or as directed by the REIT.
- (h) Any payment made by way of cheque by the Depositary or the REIT, as applicable, pursuant to this Plan of Arrangement that has not been deposited or has been returned to the Depositary or that otherwise remains unclaimed, in each case, on or before the sixth anniversary of the Effective Time, and any right or claim to payment hereunder that remains outstanding on the sixth anniversary of the Effective Time shall cease to represent a right or claim of any kind or nature and the right of the holder to receive the applicable Consideration pursuant to this Plan of Arrangement shall terminate and be deemed to be surrendered and forfeited to the REIT for no consideration.
- (i) No holder of Units shall be entitled to receive any consideration with respect to such Units other than the Special Distribution pursuant to Section 2.3(c) and any cash payment to which such holder is entitled to receive in accordance with this Section 4.1 and, for greater certainty, no such holder will be entitled to receive any interest, distributions, premium or other payment in connection therewith, other than any declared but unpaid distributions with a record date prior to or on the Effective Date, the Special Distribution pursuant to Section 2.3(c) or distributions on the Units (other than Units in respect of which Dissent Rights have been validly exercised and not withdrawn) forming part of the Consideration.

4.2 Lost Certificates

In the event any certificate which immediately prior to the Effective Time represented one or more outstanding Units that were transferred pursuant to Section 2.3 of this Plan of Arrangement shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person

claiming such certificate to be lost, stolen or destroyed, the Depositary will issue in exchange for such lost, stolen or destroyed certificate, the Consideration that such Unitholder has the right to receive in accordance with Section 2.3 of this Plan of Arrangement and such Unitholder's Letter of Transmittal. When authorizing such exchange for any lost, stolen or destroyed certificate, the Person to whom such Consideration is to be delivered shall, as a condition precedent to the delivery of such Consideration, give a bond satisfactory to the Purchaser and the Depositary (each acting reasonably) in such sum as the Purchaser may direct (acting reasonably), or otherwise indemnify the Purchaser, the REIT and the Depositary in a manner satisfactory to the each of them (acting reasonably) against any claim that may be made against the Purchaser and the Depositary with respect to the certificate alleged to have been lost, stolen or destroyed.

4.3 Withholding Rights

Each of the Purchaser, the REIT, the GP, the Depositary and any other Person that makes a payment shall be entitled to deduct and withhold, or direct any other Person to deduct and withhold on their behalf, from the amount payable to any Person under this Plan of Arrangement such amount as the Purchaser, the REIT, the GP, the Depositary or such other Person deems, each acting reasonably, is required to be deducted or withheld pursuant to the Tax Act or any provision of any Law in connection with any step under this Plan of Arrangement and remit such deducted and withheld amount to the appropriate Regulatory Authority. For greater certainty, if an amount is required to be withheld in connection with the Special Distribution, the Purchaser, the REIT, the GP, the Depositary or any other applicable Person shall be permitted to either withhold such amount from the cash consideration payable to such Unitholder under this Plan of Arrangement or withhold and dispose Units through consolidation pursuant to Section 2.3(c). To the extent that any amount is so properly deducted, withheld and remitted, such amount shall be treated for all purposes of this Plan of Arrangement as having been paid to the relevant recipient, provided that such amounts are actually remitted to the appropriate Regulatory Authority.

4.4 Encumbrances

Any exchange or transfer of securities pursuant to this Plan of Arrangement shall be free and clear of any Encumbrances or other claims of third parties of any kind.

4.5 Paramountcy

From and after the Effective Time (a) this Plan of Arrangement shall take precedence and priority over any and all of the securities of the REIT issued or outstanding prior to the Effective Time, excluding the Debentures, (b) the rights and obligations of the registered and beneficial securityholders (excluding the holders of the Debentures), the REIT, the GP, the Purchaser, the Depositary and any transfer agent or other depository therefor in relation thereto, shall be solely as provided for in this Plan of Arrangement, and (c) all actions, causes of action, claims or proceedings (actual or contingent and whether or not previously asserted) based on or in any way relating to any securities of the REIT, excluding the Debentures, are deemed to have been settled, compromised, released and determined without liability except as set forth herein.

ARTICLE 5 RELEASES

5.1 Releases

At the Effective Time and in accordance with the sequence of steps set out in Section 2.3, each of the Released Parties will be released and discharged from any and all demands, claims, liabilities, indemnities, indebtedness, obligations, causes of action, debts, accounts, covenants, damages, executions and other recoveries based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place including those arising by contract, at common law, by statute or otherwise howsoever, on or prior to and including the Effective Time, of any of the Unitholders, relating to, arising out of, or in connection with, the REIT, the GP or the Limited Partnership, including control thereof, the business or assets directly or indirectly owned by the REIT, the GP or the Limited partnership, any securities of the REIT, this Plan of Arrangement and any proceedings commenced with respect to or in connection with this Plan of Arrangement; provided that: (i) nothing in this paragraph will release or discharge any of the Released Parties from or in respect of its obligations under or any other terms of this Plan of Arrangement, any documents executed in connection herewith or the Final Order (including, any consideration payable hereunder or thereunder); (ii) nothing herein will release or discharge a Released Party to the extent such Released Party has admitted to having committed, or is determined by a court of competent jurisdiction to have committed, gross negligence, fraud or wilful misconduct; (iii) nothing herein will release or discharge a Released Party with respect to claims that any director, trustee, officer, employee, former director, former trustee, former officer or former employee of any Released Party may have relating to indemnification or under an indemnification or employment agreement, organizational documents of the applicable Released Party or otherwise; and (iv) the auditors, financial advisors and legal counsel of the REIT, the GP, the Limited Partnership and the Purchaser shall be released and discharged only with respect to matters relating to, arising out of, or in connection with, this Plan of Arrangement, including the transactions contemplated hereby, and any proceedings commenced with respect to or in connection with this Plan of Arrangement.

ARTICLE 6 AMENDMENTS

6.1 Amendments to Plan of Arrangement

- (a) The REIT, the GP and the Purchaser may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the Effective Time, provided that each such amendment, modification and/or supplement must be (i) set out in writing, (ii) approved by the Purchaser, the REIT and the GP (subject to the Arrangement Agreement), each acting reasonably, (iii) filed with the Court and, if made following the Meeting, approved by the Court, and (iv) communicated to the Unitholders if and as required by the Court.
- (b) Any amendment, modification or supplement to this Plan of Arrangement may be proposed by the REIT, the GP or the Purchaser at any time prior to the Meeting (provided that the Purchaser, the REIT or the GP (subject to the Arrangement Agreement), as applicable, shall have consented thereto) with or without any other prior notice or communication, and if so proposed and accepted by the Persons

voting at the Meeting (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.

- (c) Any amendment, modification or supplement to this Plan of Arrangement that is approved or directed by the Court following the Meeting shall be effective only if (i) it is consented to in writing by each of the REIT, the GP and the Purchaser (each, acting reasonably), and (ii) if required by the Court, it is consented to by some or all of the Unitholders voting in the manner directed by the Court.
- (d) Any amendment, modification or supplement to this Plan of Arrangement may be made following the granting of the Final Order without filing such amendment, modification or supplement with the Court or seeking Court approval, provided that (i) it concerns a matter which, in the reasonable opinion of the Parties, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the interest of any Unitholder, or (ii) is an amendment contemplated in Section 6.1 of this Plan of Arrangement.
- (e) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by the Purchaser, provided that it concerns a matter which, in the reasonable opinion of the Purchaser, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the economic interest of any former Unitholder.
- (f) This Plan of Arrangement may be withdrawn prior to the Effective Time in accordance with the terms of the Arrangement Agreement.

ARTICLE 7 FURTHER ASSURANCES

7.1 Further Assurances

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

Schedule B
ARRANGEMENT RESOLUTION

SPECIAL RESOLUTION OF THE HOLDERS OF TRUST UNITS AND SPECIAL VOTING UNITS OF MELCOR REAL ESTATE INVESTMENT TRUST (the "REIT")

BE IT RESOLVED THAT:

- a) The arrangement (the "**Arrangement**") under section 193 of the *Business Corporations Act* (Alberta) (the "**ABCA**") involving the REIT and Melcor REIT GP Inc. (the "**GP**"), as more particularly described and set forth in the management information circular of the REIT (the "**Circular**") dated **▲**, 2024 accompanying the notice of this meeting, and as the Arrangement may be amended, modified or supplemented in accordance with the arrangement agreement dated September 12, 2024 between Melcor Developments Ltd. (the "**Purchaser**"), the REIT and the GP (as it may from time to time be amended, modified or supplemented, the "**Arrangement Agreement**"), is hereby authorized, approved and adopted.
- b) The plan of arrangement of the REIT and the GP (as it may be amended, modified or supplemented in accordance with its terms and the terms of the Arrangement Agreement, the "**Plan of Arrangement**"), the full text of which is set out in Schedule **▲** to the Circular (as the Plan of Arrangement may be, or may have been, duly modified or amended), is hereby authorized, approved and adopted.
- c) The Arrangement Agreement and related transactions, the actions of the trustees of the REIT in approving the Arrangement Agreement, the actions of the trustees of the REIT in executing and delivering the Arrangement Agreement and any amendments, modifications or supplements thereto, are hereby ratified and approved.
- d) The REIT is hereby authorized to apply for a final order from the Court of King's Bench of Alberta (the "**Court**") to approve the Arrangement on the terms set forth in the Arrangement Agreement and the Plan of Arrangement (as they may be amended in accordance with the Arrangement Agreement and the Plan of Arrangement).
- e) Notwithstanding that this resolution has been passed (and the Arrangement approved and agreed to) by the holders of trust units and special voting units of the REIT or that the Arrangement has been approved by the Court, the trustees of the REIT are hereby authorized and empowered to, without notice to or approval of the holders of trust units and special voting units of the REIT (i) amend, modify or supplement the Arrangement Agreement or the Plan of Arrangement, or (ii) subject to the terms of the Arrangement Agreement, not to proceed with the Arrangement and related transactions.
- f) Any one trustee or officer of the REIT is hereby authorized and directed, for and on behalf of the REIT to make an application to the Court for an order approving the Arrangement and to execute under the seal of the REIT or otherwise and deliver or cause to be delivered for filing with the Registrar under the ABCA articles of arrangement and such other documents as may be necessary or desirable to give effect to the Arrangement in accordance with the Arrangement Agreement, such determination to be conclusively evidenced by the execution and delivery of such articles of arrangement and any such other documents.

- g) Any one trustee or officer of the REIT is hereby authorized and directed, empowered and instructed for and on behalf of the REIT, to execute or cause to be executed and to deliver or cause to be delivered all such other documents and instruments and to perform or cause to be performed all such other acts and things as such person determines may be necessary or desirable to give full effect to the foregoing resolution and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such document or instrument or the doing of any such act or thing.

SCHEDULE C
REPRESENTATIONS AND WARRANTIES OF THE REIT

1. **Status.**

The REIT is a trust established and validly existing under the Laws of Alberta. The REIT (through its trustees and their capacity as such) has the requisite power, authority and capacity to enter into this Agreement and all other agreements contemplated by this Agreement and to perform its obligations under this Agreement and all other agreements contemplated by this Agreement.

2. **Authorization.**

Subject to receipt of the REIT Unitholder Approval, approval by the Court and the Regulatory Approvals (together, the “**Required Approvals**”), the execution and delivery by the REIT and its Subsidiaries of this Agreement and all other agreements contemplated by this Agreement and its consummation of the transactions contemplated by this Agreement, have been duly authorized by all necessary trust, unitholder, partnership, partner and/or corporate proceedings on the part of the REIT and its Subsidiaries.

3. **No Breach of Instruments or Laws.**

Subject to obtaining the Required Approvals and the Regulatory Approvals, neither the entering into nor the delivery of this Agreement and all other agreements contemplated by this Agreement nor the completion by the REIT or its Subsidiaries and Joint Ventures of the transactions contemplated hereby will conflict with, or constitute a default under, or result in a violation of: (i) the Constatting Documents of the REIT or any of its Subsidiaries and Joint Ventures, or (ii) any Law.

4. **Enforceability of Obligations.**

This Agreement has been validly executed and delivered by the REIT and the GP and is a valid and legally binding obligation of the REIT and the GP and enforceable against the REIT and the GP in accordance with its terms, subject to the limitations with respect to enforcement imposed by Law in connection with bankruptcy, insolvency, liquidation, reorganization or other similar laws affecting the enforcement of creditors’ rights generally and subject to the availability of equitable remedies such as specific performance and injunction which are only available in the discretion of the court from which they are sought (the “**Bankruptcy and Equity Exception**”).

5. **No Bankruptcy.**

To the knowledge of the REIT, none of the REIT or its Subsidiaries and Joint Ventures (i) is an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada), (ii) has made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, (iii) has had any petition for a receiving order presented in respect of it, or (iv) has initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution.

6. Regulatory Approvals.

The execution, delivery and performance by the REIT and the GP of this Agreement and the consummation by the REIT and the GP of the Arrangement do not require any Regulatory Approval or other action by or in respect of, or filing, recording, registering or publication with, or notification to, any Regulatory Authority by the REIT or any of its Subsidiaries and Joint Ventures other than (i) the Interim Order and any approvals required by the Interim Order, (ii) the Final Order, (iii) filing of the Articles of Arrangement with the Registrar, (iv) compliance with Securities Law and stock exchange rules and policies, and (v) any other actions or filings the absence of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

7. Capitalization.

- (a) The REIT is authorized to issue an unlimited number of Units and Special Voting Units. As of the date of this Agreement, (i) 12,963,169 Units are issued and outstanding, and (ii) 16,125,147 Special Voting Units are issued and outstanding. The Units and Special Voting Units were duly and validly issued as fully-paid and non-assessable in accordance with the Constatting Documents of the REIT and applicable Laws.
- (b) As of the date of this Agreement, \$46.0 million principal amount of Debentures were issued and outstanding. The Debentures were duly and validly issued in accordance with the Debenture Indenture and applicable Laws.
- (c) The Limited Partnership is authorized to issue an unlimited number of Class A GP Units, Class A LP Units, Class B LP Units and Class C LP Units. As of the date of this Agreement, (i) one (1) Class A GP Unit was issued and outstanding; (ii) 12,963,169 Class A LP Units were issued and outstanding; (iii) 16,125,147 Class B LP Units were issued and outstanding, each convertible, at the option of the holder thereof, into one (1) Unit, and (iv) 10,785,613 Class C LP Units were issued and outstanding. The Class A LP Units, Class B LP Units and Class C LP Units were duly and validly issued as fully-paid and non-assessable in accordance with the Constatting Documents of the Limited Partnership and the GP and applicable Laws. All issued and outstanding Class A LP Units are legally and beneficially owned by the REIT. The issued and outstanding Class A GP Unit is legally and beneficially owned by the GP. The GP is the sole general partner of the Limited Partnership.
- (d) The GP is authorized to issue an unlimited number of Common Shares. As of the date of this Agreement, 1 Common Share of the GP was issued and outstanding. The Common Share of the GP was duly and validly as a fully-paid and non-assessable share of the GP. All issued and outstanding Common Shares of the GP are legally and beneficially owned by the REIT.
- (e) The Units are listed on the TSX and are not listed on any market other than the TSX. The Debentures are listed and posted for trading on the TSX and are not listed on any market other than the TSX.
- (f) Neither the REIT nor any of its Subsidiaries has securities outstanding which are convertible, exchangeable or exercisable into other securities of the REIT or any of its Subsidiaries and there are no outstanding options on or rights to subscribe for any of the unissued securities of the REIT or any of its

Subsidiaries, except for the Units issuable in connection with the Debentures and the Class B LP Units.

8. Unitholders and Similar Agreement.

Except for the Declaration of Trust, the REIT is not party to any unitholder, pooling, voting or other similar arrangement or agreement relating to the ownership or voting of any of the securities of the REIT or any of its Subsidiaries.

9. Subsidiaries.

(a) As at the date of this Agreement, the Subsidiaries of the REIT are:

- (i) The Limited Partnership; and
- (ii) The GP.

Except for the Subsidiaries, the REIT does not own any securities of, and has made no investment in, any Person. Except for the Limited Partnership's interest in the Joint Ventures, no Subsidiary of the REIT owns any securities of, or has made an investment in, any Person.

(b) Each Subsidiary (i) is a corporation, trust or partnership, as the case may be, duly organized and validly existing under the Laws of the jurisdiction of its incorporation, amalgamation, organization or formation, as the case may be, (ii) has all requisite corporate, trust or partnership power and authority, as the case may be, to own its assets and to conduct its business as now owned and conducted, and (iii) is duly qualified, licensed or registered to conduct business in each jurisdiction in which its assets are located or it conducts business, except where the failure to be so organized, validly existing, qualified, licensed, registered or in good standing, or to have such power or authority, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

10. Securities Law Matters.

- (a) The REIT is a "reporting issuer" under Securities Laws in each of the provinces and territories of Canada. The Units are listed and posted for trading on the TSX. The REIT is not on a list of reporting issuers in default under the Securities Laws of any Canadian province or territory and is not in material default under the applicable listing and corporate governance rules and regulations of the TSX.
- (b) As of the date of this Agreement, the REIT has not taken any action to cease to be a reporting issuer in any Canadian province or territory nor has the REIT received notification from any Securities Authority seeking to revoke the reporting issuer status of the REIT.
- (c) The REIT has timely filed or furnished the REIT Public Documents in accordance with applicable Securities Laws in all material respects. Each of the REIT Public Documents did not, as of the date filed (or, if amended or superseded by a subsequent filing prior to the date of this Agreement, on the date of such filing), contain any material misrepresentation. The REIT has not

filed any confidential material change report (which at the date of this Agreement remains confidential) with a Securities Authority.

11. **Financial Statements and Records.**

The REIT's audited consolidated financial statements as at and for the fiscal years ended December 31, 2023 and 2022 and its interim consolidated financial statements as at and for the quarter ended June 30, 2024 (the "**Financial Statements**") present fairly, in all material respects, the consolidated financial position of the REIT and its Subsidiaries and Joint Ventures as of the respective dates thereof and its financial performance and cash flows for the respective years covered thereby in accordance with IFRS (except as may be otherwise indicated in such Financial Statements and the notes thereto or the related report of the REIT's auditors and except as regards the absence of full note disclosure in such interim financial statements).

12. **Auditors.**

The auditors of the REIT are independent public accountants as required by applicable Laws and there is not now, and there has not been since December 31, 2023, any reportable event (as defined in National Instrument 51-102 – *Continuous Disclosure Obligations*) with the present or any former auditors of the REIT.

13. **No Undisclosed Liabilities.**

Except to the knowledge of the Purchaser as of the date hereof, there are no material liabilities or obligations of the REIT or of any of its Subsidiaries and Joint Ventures of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise which would be required by IFRS to be set forth on a consolidated balance sheet of the REIT, other than liabilities or obligations (i) disclosed in the Financial Statements, the corresponding management discussion and analysis or in the notes thereto, (ii) incurred in the ordinary course since December 31, 2023, (iii) incurred in connection with this Agreement, (iv) incurred in connection with the Loan Agreement, and (v) in connection with any Permitted Lien, or (v) that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

14. **Absence of Certain Changes or Events.**

Other than the transactions contemplated or permitted by this Agreement, since December 31, 2023, the business of the REIT and its Subsidiaries and Joint Ventures has been conducted in the Ordinary Course, and there has not occurred and been continuing a Material Adverse Effect.

15. **Compliance with Laws; Permits.**

- (a) As of the date of this Agreement, the REIT and each of its Subsidiaries and Joint Ventures is in compliance with all Laws necessary for the conduct of the business of the REIT and its Subsidiaries and Joint Ventures as currently conducted, except for failures to comply or violations that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.
- (b) As of the date of this Agreement, the REIT and each of its Subsidiaries and Joint Ventures possess all Permits necessary for the conduct of the business of the REIT and its Subsidiaries as currently conducted, except for those the absence

of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

16. **Brokers.**

Except for BMO Nesbitt Burns Inc. and Ventum Financial Corp., no investment banker, broker, finder, financial adviser, valuator or other intermediary is entitled to any fee, commission or other payment from the REIT or any of its Subsidiaries, in connection with the Arrangement.

17. **Contracts.**

- (a) None of the REIT or any of its Subsidiaries and Joint Ventures are party to any Contract except: (i) Contracts which were approved or authorized by the Purchaser, as manager of the REIT and its Subsidiaries and Joint Ventures; (ii) Contracts between the REIT and the REIT's advisors in connection with the Arrangement, true and complete copies of which have been provided to the Purchaser; and (iii) Contracts entered into by the REIT or its Subsidiaries and Joint Ventures in the Ordinary Course.
- (b) Each Material Contract to which the REIT or any of its Subsidiaries and Joint Ventures is party is valid, legally binding and in full force and effect and is enforceable against the REIT or the applicable Subsidiary or Joint Venture, and, to the knowledge of the REIT, the other parties thereto, in accordance with its terms (subject only to the Bankruptcy and Equity Exception), in each case except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.
- (c) Neither the REIT nor any of its Subsidiaries and Joint Ventures is in breach or default under any Material Contract, nor does there exist any condition that with the passage of time or the giving of notice or both would result in such a breach or default, except for such breach or default which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

18. **Ownership of Assets.**

- (a) The REIT and its Subsidiaries and Joint Ventures own all of the assets set forth in the most recent interim Financial Statements except:
 - (i) as disclosed in the REIT Public Documents (other than under the headings "Risk Factors" or "Forward Looking Statements" and any other similar disclosures contained therein that are predictive, cautionary or forward-looking in nature);
 - (ii) for assets sold, transferred, consumed or disposed of in the Ordinary Course; and
 - (iii) for assets currently subject to sales Contracts.
- (b) The REIT and its Subsidiaries and Joint Ventures own their assets free and clear from all Liens whatsoever other than the Permitted Liens.
- (c) Except for assets currently subject to sales Contracts, neither the REIT nor any

of the Subsidiaries and Joint Ventures, nor any agents acting on their respective behalf, have approved or entered into any agreement in respect of the purchase of any material asset or the sale, transfer or other disposition of any material asset currently owned, directly or indirectly, by the REIT or the Subsidiaries and Joint Ventures whether by asset sale, transfer of shares or otherwise.

19. **Notices.**

To the knowledge of the REIT, there are no outstanding obligations relating to any existing written notice from any Regulatory Authority ordering or directing that any alteration, repair, improvement or other work be done with respect to any Property or relating to any non-compliance with any Law that are not being attended to the REIT or its Subsidiaries and Joint Ventures.

20. **Leases.**

With respect to each lease agreement to which the REIT or any of its Subsidiaries and Joint Ventures are party to as landlord (each, a "**Lease**"), to the knowledge of the REIT, as of the date hereof:

- (a) each Lease is in full force and effect;
- (b) neither the REIT nor any Subsidiary or Joint Venture is in default of any of its material obligations as landlord under any of the Leases;
- (c) to the knowledge of the REIT, the tenants under the Leases are not in default of any of obligations as tenants under such Leases, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;
- (d) neither the REIT nor any Subsidiary or Joint Venture has received written notice from any tenant or counterparty to any Lease of any ongoing dispute involving any terms of its Lease except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; and
- (e) neither the REIT nor any Subsidiary or Joint Venture has received written notice from any tenant indicating an intention to vacate its premises or any part thereof or terminate its Lease prior to the date of the expiration of its Lease, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

21. **Remedial Orders.**

To the knowledge of the REIT, as of the date hereof there are no outstanding obligations relating to any existing written notice of any Remedial Order from any Regulatory Authority with respect to the assets owned legally or beneficially by the REIT or its Subsidiaries and Joint Ventures.

22. **No Expropriation.**

To the knowledge of the REIT, no written notice of any expropriation or condemnation affecting any of the assets owned legally or beneficially by the REIT or its Subsidiaries and Joint Ventures has been issued or received.

23. Environmental Data.

To the knowledge of the REIT, copies of all reports pertaining to any environmental assessment/audits relating to the assets owned legally or beneficially by the REIT or its Subsidiaries and Joint Ventures that were obtained by, or in the possession or control of, or carried out on behalf of the REIT or its Subsidiaries have been made available to, or are otherwise in the possession of, the Purchaser.

24. Environmental Matters.

To the knowledge of the REIT, there has not been any Release of any Hazardous Substance on, in, around, from or in connection with any Property, other than as revealed in the environmental reports made available to, or are otherwise in the possession of, the Purchaser or the REIT. Furthermore, other than as revealed in such environmental reports or as is otherwise within the knowledge of the Purchaser as of the date hereof, to the knowledge of the REIT, no building, structure or improvement located on such Property is or ever has been insulated with urea formaldehyde insulation nor do such buildings, structures or improvements contain asbestos or polychlorinated biphenyls or toxic mold nor are there any underground storage tanks located on or under such Property, nor has any Property ever been used as a waste disposal site or burial grounds or cemetery.

25. Builders Liens.

All material accounts owing for work, labour, materials, services and equipment performed or made available for or on behalf of the REIT in respect of or relating to the Properties have been fully paid for or are properly accrued and accurately reflected in the books and records of the REIT, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the knowledge of the REIT, neither the REIT nor any Subsidiary or Joint Venture has received notice of any claim of any Person, in respect of any Lien under the applicable statute governing construction (or similar) Liens in the applicable jurisdiction in which any of the Properties are situated affecting the Properties; except as may be shown on the registered title to any of the Properties or as would not reasonably be expected to have a Material Adverse Effect.

26. Permitted Liens Complied With.

Except as would not result in a Material Adverse Effect, the Permitted Liens are in good standing and have been complied with in all respects to date.

27. Intellectual Property.

Except as would not result in a Material Adverse Effect, the REIT and/or its Subsidiaries and Joint Ventures is the legal and beneficial owner of all Intellectual Property used or owned by it, free and clear of all Liens (other than Permitted Liens), and is not a party to or bound by any Contract or other obligation that limits or impairs its ability to sell, transfer, assign or convey, or that otherwise affects, such Intellectual Property. The REIT has no knowledge of any infringement or breach of any Intellectual Property of any other Person by the REIT or its Subsidiaries and Joint Ventures and has no knowledge of any infringement or violation of any of the rights of the REIT and its Subsidiaries and Joint Ventures in such Intellectual Property except, in each case, for any such infringement that would not individually or in the aggregate have a Material

Adverse Effect.

28. **Litigation and Proceedings.**

Except to the knowledge of the Purchaser as of the date hereof, there are no Actions pending or in progress or, to the knowledge of the REIT, threatened against the REIT or its Subsidiaries and Joint Ventures, that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. There are no judgements, decrees, injunctions, rulings, awards or orders of any Regulatory Authority outstanding against the REIT or its Subsidiaries and Joint Ventures which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the knowledge of the REIT, there are no investigations by any Regulatory Authority in progress with respect to the REIT or its Subsidiaries nor is there any valid basis for any such investigation.

29. **Insurance.**

The REIT has no insurance other than that arranged by the Purchaser as manager.

30. **Taxes.**

- (a) All material Tax Returns required by applicable Laws to be filed with any Regulatory Authority by, or on behalf of, the REIT or its Subsidiaries and Joint Ventures have been or will be filed when due in accordance with all applicable Laws (taking into account any applicable extensions), and all such material Tax Returns are, or shall be at the time of filing, true and complete in all material respects.
- (b) Each of the REIT and its Subsidiaries and Joint Ventures has paid, or has had paid on its behalf, or has collected, withheld and remitted to the appropriate Regulatory Authority all material Taxes due and payable on a timely basis, other than those Taxes being contested in good faith, and where payment is not yet due, has established in accordance with IFRS an adequate accrual for all material Taxes through the end of the last period for which the REIT and its Subsidiaries and Joint Ventures ordinarily record items on its books and records.
- (c) There is no material action pending or, to the knowledge of the REIT, threatened against the REIT or any of its Subsidiaries and Joint Ventures in respect of any Tax.
- (d) There are no currently effective material elections, agreements or waivers extending the statutory period or providing for an extension of time with respect to the assessment or reassessment of any material Taxes by the REIT and its Subsidiaries and Joint Ventures.
- (e) The REIT has qualified as a “real estate investment trust” for purposes of the Tax Act, as currently enacted in the Tax Act, throughout its taxation year ending on December 31, 2023 and will qualify as a “real estate investment trust” for purposes of the Tax Act, as currently enacted in the Tax Act, as of the Effective Time.
- (f) The REIT has qualified as a “mutual fund trust” for purposes of the Tax Act, as currently enacted in the Tax Act, throughout its taxation year ending on

December 31, 2023 and will qualify as a “mutual fund trust” for purposes of the Tax Act, as currently enacted in the Tax Act, as of the Effective Time.

- (g) The REIT and each Subsidiary and Joint Venture is a GST/HST registrant under the *Excise Tax Act* (Canada).
- (h) Each Subsidiary in which the REIT has a direct or indirect interest has, at all relevant times, qualified, and is expected to continue to qualify, as an “excluded subsidiary entity” as defined in section 122.1 of the Tax Act.

31. **Exclusive Right.**

Except for the Purchaser under this Agreement, no Person has any written or oral agreement, option, right, understanding or commitment, or any right or privilege capable of becoming such (including any right of first refusal or right of first offer which has not been waived) for the purchase or other acquisition from the REIT or its Subsidiaries and Joint Ventures of any of the Properties or other assets of the REIT or its Subsidiaries.

32. **Loan Agreement.**

The Loan Agreement has been validly executed and delivered by the REIT and is a valid and legally binding obligation of the REIT and enforceable against the REIT in accordance with its terms subject only to the Bankruptcy and Equity Exception.

33. **Properties.**

The title to all Properties of the REIT and its Subsidiaries and Joint Ventures are free and clear of all Encumbrances, except for the Permitted Liens.

SCHEDULE D
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

1. **Status.**

The Purchaser is a corporation incorporated and validly existing under the Laws of Alberta. The Purchaser has the corporate power and authority to enter into this Agreement and all other agreements contemplated by this Agreement and to perform its obligations under this Agreement and all other agreements contemplated by this Agreement.

2. **Authorization.**

The execution and delivery by the Purchaser of this Agreement and all other agreements contemplated by this Agreement and its consummation of the transactions contemplated by this Agreement, have been duly authorized by all necessary trust proceedings on the part of the Purchaser.

3. **No Breach of Instruments or Laws.**

Neither the entering into nor the delivery of this Agreement nor the completion by the Purchaser of the transactions contemplated hereby will conflict with, or constitute a default under, or result in a violation of: (i) the Constatting Documents of the Purchaser or any of its Subsidiaries, or (ii) any Law.

4. **Enforceability of Obligations.**

This Agreement has been validly executed and delivered by the Purchaser and is a valid and legally binding obligation of the Purchaser and enforceable against the Purchaser in accordance with its terms subject only to the Bankruptcy and Equity Exception.

5. **No Bankruptcy.**

The Purchaser (i) is not an insolvent person within the meaning of the *Bankruptcy and Insolvency Act (Canada)* or the *Winding-up and Restructuring Act (Canada)*, (ii) has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, (iii) has not had any petition for a receiving order presented in respect of it, or (iv) has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution.

6. **Regulatory Approvals.**

The execution, delivery and performance by the Purchaser of this Agreement and the consummation by the Purchaser of the Arrangement does not require any Regulatory Approvals or other action by or in respect of, or filing, recording, registering or publication with, or notification to any Regulatory Authority other than (i) the Interim Order and any approvals required by the Interim Order, (ii) the Final Order, and (iii) filing of the Articles of Arrangement, (iv) compliance with Securities Law and stock exchange rules and policies.

7. **Litigation.**

There are no Actions pending or in progress or threatened against the Purchaser that would reasonably be expected to, individually or in the aggregate, materially delay or materially impair the ability of the Purchaser to consummate the Arrangement and the other transactions contemplated by this Agreement. There are no judgements, decrees, injunctions, rulings, awards or orders of any Regulatory Authority outstanding against the Purchaser that would reasonably be expected to, individually or in the aggregate, materially delay or materially impair the ability of the Purchaser to consummate the Arrangement and the other transactions contemplated by this Agreement.

8. **Investment Canada Act.**

The Purchaser is not a “non-Canadian” within the meaning of the *Investment Canada Act* (Canada), R.S.C. 1985, c. 28 (1st Supp.).

9. **No Other REIT Representations or Warranties.**

Except for the representations and warranties set forth in Schedule C, the Purchaser hereby acknowledges and agrees that neither the REIT nor any of its Subsidiaries or Joint Ventures, nor any of their respective stockholders, trustees, directors, officers, employees, Affiliates, advisors, agents or representatives, nor any other Person, has made or is making any other express or implied representation or warranty with respect to the REIT or any of its Subsidiaries or Joint Ventures or their respective business or operations, including with respect to any information provided, disclosed or delivered to the Purchaser.

10. **Equity Interest.**

The Purchaser holds, or exercises control or direction over: (i) 16,125,147 Special Voting Units, representing all of the issued and outstanding Special Voting Units; (ii) 16,125,147 Class B Limited Partnership Units of the Limited Partnership, representing all of the issued and outstanding Class B Limited Partnership; and (iii) 10,785,613 Class C Limited Partnership Units of the Limited Partnership, representing all of the issued and outstanding Class C Limited Partnership. To the knowledge of the Purchaser, no related party (as defined in MI 61-101) of the Purchaser, beneficially owns or exercises control or direction over, other than through its interest in the Purchaser, more than five per cent of any class of voting or equity securities of the REIT.

11. **Financing.**

The Purchaser has sufficient funds available to satisfy the Consideration and the Debenture Repayment Amount pursuant to the Arrangement in accordance with this Agreement and the Plan of Arrangement and all other obligations payable by the Purchaser pursuant to this Agreement.

12. **Knowledge Regarding REIT.**

To the knowledge of the Purchaser, all of the representations and warranties of the REIT contained in this Agreement, including without limitation Schedule C hereto, are true and correct in all material respects, and to the knowledge of the Purchaser, no facts or circumstances exist as of the date hereof that would cause or would reasonably be expected to cause any Party to be unable to satisfy its obligations set forth in this

Agreement in accordance with its terms.

13. **Loan Agreement.**

The Loan Agreement has been validly executed and delivered by the Purchaser and is a valid and legally binding obligation of the Purchaser and enforceable against the Purchaser in accordance with its terms subject only to the Bankruptcy and Equity Exception.

**Schedule F
LOAN AGREEMENT**

LOAN AGREEMENT

DATED AS OF SEPTEMBER 12 2024

Between:

**MELCOR REIT LIMITED PARTNERSHIP
as Borrower**

- and -

**MELCOR REAL ESTATE INVESTMENT TRUST
as Covenantor and Guarantor**

- and -

**MELCOR DEVELOPMENTS LTD.
as Lender**

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LOAN AGREEMENT

THIS AGREEMENT made as of the 12th day of September, 2024

BETWEEN:

MELCOR REIT LIMITED PARTNERSHIP, a limited partnership formed and existing under the laws of the Province of Alberta, as borrower

(hereinafter referred to as the "**Borrower**")

AND:

MELCOR REAL ESTATE INVESTMENT TRUST, a trust under the laws of the Province of Alberta, as covenantor and guarantor

(hereinafter referred to as the "**REIT**")

AND:

MELCOR DEVELOPMENTS LTD., a corporation organized and existing under the laws of the Province of Alberta, as lender

(hereinafter referred to as the "**Lender**")

WHEREAS the Borrower has requested, and the Lender has agreed, to establish an unsecured loan in the principal amount equal to the Convertible Debenture Repayment Amount, on and subject to the terms and conditions herein set forth.

NOW THEREFORE THIS LOAN AGREEMENT WITNESSES that for good and valuable consideration, the receipt and sufficiency of which are acknowledged by each of the parties, the parties agree as follows:

ARTICLE 1 INTERPRETATION

Definitions

1.1 In this Agreement, unless there is something in the subject matter or context inconsistent therewith:

"**Advance**" has the meaning attributed to such term in Section 2.1;

"**Agreement**", "**this Agreement**", "**hereto**", "**hereby**", "**hereunder**", "**hereof**", "**herein**" and similar expressions refer to this loan agreement, as amended, modified, supplemented, restated or replaced from time to time, and not to any particular Article, Section, subsection, paragraph, clause, subdivision or other portion hereof, and include any and every supplemental agreement; and the expressions "**Article**", "**Section**", "**subsection**" and "**paragraph**" followed by a number mean and refer to the specified Article, Section, subsection or paragraph of this Agreement;

"**Applicable Law**" means, at any time, with respect to any Person, all laws, rules, statutes, regulations, treaties, orders, judgments and decrees applicable at such time to such Person;

"**Asset Management Agreement**" means the amended and restated asset management agreement between the Lender and the REIT dated May 26, 2022, pursuant to which the Lender provides asset management services to the REIT;

“Asset Sale” shall mean the sale, transfer or other disposition (including any casualty or condemnation) by the Borrower (or any Person the Borrower holds securities of) of any real property, asset related to real property or shares, joint venture interests or other securities of any Person holding real property or other assets related to real property;

“Arrangement Agreement” means the arrangement agreement between the Lender, Melcor REIT GP Inc. and the REIT dated September 12, 2024, including the schedules thereto, as amended, supplemented or otherwise modified from time to time in accordance with its terms;

“ATB” means ATB Financial in its capacity as administrative agent under the Senior Credit Agreement;

“Business Day” means any day (other than Saturday, Sunday or a statutory holiday) when banks are open in Edmonton, Alberta;

“Cash Proceeds” shall mean, with respect to any Asset Sale, cash, cash equivalents or marketable securities received by or on behalf of the Borrower from such Asset Sale, including any insurance or condemnation or expropriation proceeds and cash proceeds received by way of deferred payment pursuant to a note receivable or otherwise;

“Change of Control” means the acquisition by any Person, or group of Persons acting jointly or in concert, other than the Lender or any Persons acting jointly or in concert with the Lender, of voting control or direction over an aggregate of 50% or more of the outstanding trust units of the REIT (on a fully-diluted basis including assuming the conversion or exchange of units of the Borrower which are convertible or exchangeable into trust units of the REIT);

“Convertible Debenture Repayment Amount” means the aggregate principal amount of all Convertible Debentures outstanding on the Redemption Date or Debenture Maturity Date, as applicable (excluding, for certainty, all accrued but unpaid interest thereon), payable in connection with the redemption or repayment, as applicable, in full of the Convertible Debentures on such date;

“Convertible Debentures” means the \$46.0 million aggregate principal amount of 5.10% convertible unsecured subordinated debentures having a maturity date of December 31, 2024, which were issued by the REIT on October 29, 2019 under the Supplemental Indenture and which are governed by the terms of the Convertible Indenture;

“Convertible Indenture” means the trust indenture entered into between the REIT and Valiant Trust Company dated December 3, 2014, as supplemented by a first supplemental indenture between the REIT, Valiant Trust Company and AST Trust Company dated September 25, 2015, as supplemented by a second supplemental indenture between the REIT and AST Trust Company dated December 3, 2017, as supplemented by a third supplemental indenture between the REIT and AST Trust Company dated October 29, 2019, as supplemented by a fourth supplemental indenture between the REIT, Odyssey Trust Company and TSX Trust Company dated May 10, 2022;

“Deadline” means 4:00 p.m. (Edmonton, Alberta time) on December 17, 2024;

“Debenture Maturity Date” means December 31, 2024;

“Debenture Take-out Proposal” means any offer, proposal, inquiry or expression of interest (written or oral) from any Person or group of Persons relating to, whether in a single transaction or a series of related transactions, a loan (whether secured or unsecured), either to the REIT or the Borrower, the proceeds of which will be used to, directly or indirectly, repay in full the Convertible Debentures;

“Designated Cross Trustee” means Naomi Stefura;

“Event of Default” has the meaning attributed to such term in Section 6.1;

“Loan” means the principal amount of the Advance outstanding hereunder, together with all interest accrued and unpaid under this Agreement;

“Maturity Date” means that date which is three (3) years from the date of the Advance;

“Net Cash Proceeds” mean with respect to any Asset Sale or property casualty loss, the Cash Proceeds therefrom, net of, without duplication, (i) costs of sale (including payment of the outstanding principal amount of, premium or penalty, if any, and interest on any indebtedness (other than the Loan) required to be repaid under the terms thereof as a result of such Asset Sale), (ii) taxes paid or reasonably estimated to be payable in the year such Asset Sale occurs or in the following year as a result thereof, (iii) appropriate amounts required to be reserved for post-closing adjustments in connection with such Asset Sale, and (iv) deductions for indebtedness secured by any assets forming part of such Asset Sale, provided that such indebtedness is repaid as a result of such Asset Sale;

“Offering Proceeds Note” means the promissory note, in the principal amount of \$46.0 million issued by the Borrower to the REIT and dated October 29, 2019;

“Person” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, or corporation with or without share capital, body corporate, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, government or governmental authority or entity, however designated or constituted;

“Property Management Agreement” means the amended and restated agreement between the REIT and the Lender dated May 26, 2022, pursuant to which the Lender provides property management services to the REIT;

“Proposed Transaction” means the transaction provided for in the Arrangement Agreement and the plan of arrangement attached thereto;

“Redemption Date” has the meaning ascribed thereto in the Supplemental Indenture;

“Senior Credit Agreement” means the amended and restated credit agreement between the Borrower, as borrower, ATB, as administrative agent, lead arranger, syndication agent, sole bookrunner and lender, and Canadian Western Bank, as lender, dated May 27, 2024, as amended by a first amending agreement dated August 29, 2024;

“Superior Proposal Agreement” means an agreement between the REIT and a Person, other than the Lender, the subject matter is a transaction which satisfies the definition of “Superior Proposal” in the Arrangement Agreement;

“Supplemental Indenture” means the third supplemental indenture to the Convertible Indenture between the REIT and AST Trust Company dated October 29, 2019;

“Termination Date” means the date on which this Agreement is terminated in accordance with Section 8.1; and

“Utilization Request” means a written request from the REIT to the Lender requesting the making of the Advance.

Interpretation

- 1.2 The division of this Agreement into Articles, Sections, subsections and paragraphs, 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 Agreement.
- 1.3 Any reference in this Agreement to “**Dollars**”, “**dollars**” or “**\$**” shall be deemed to be a reference to lawful money of Canada.
- 1.4 Whenever any payment to be made hereunder shall be due, any period of time would begin or end, any calculation is to be made or any other action is to be taken on or as of, a day other than a Business Day, such payment shall be made, such period of time shall begin or end, such calculation shall be made and such other actions shall be taken, as the case may be, unless otherwise specifically provided for herein, on or as of the next succeeding Business Day.
- 1.5 This Agreement shall be governed by, construed and enforced in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein and shall be treated in all respects as an Alberta contract. The Borrower and the REIT hereby irrevocably attorn to the exclusive jurisdiction of the Courts of the Province of Alberta in the City of Edmonton.
- 1.6 In this Agreement, any Event of Default that has been remedied, cured or waived shall be deemed to not be “continuing”.
- 1.7 In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders. In this Agreement the words “including” or “includes” mean “including without limitation” and “includes without limitation”, respectively.
- 1.8 Time shall be of the essence in all respects in this Agreement.

ARTICLE 2 TERMS OF THE LOAN

The Advance

- 2.1 Subject solely to the conditions set out in Section 3.1, the Lender agrees to make an unsecured loan to the Borrower in an amount equal to the Convertible Debenture Repayment Amount by way of one advance made in accordance with this Agreement (the “**Advance**”). The Advance shall be made no later than two (2) Business Days following the date of receipt by the Lender of the Utilization Request in accordance with the terms hereof, provided that, unless otherwise agreed by the Lender in its sole discretion, the Lender shall not be required to make the Advance until the date that is two (2) Business Days prior to the Redemption Date or Debenture Maturity Date, as applicable.

Non-Revolver

- 2.2 The Advance is a non-revolving facility, and any repayment or prepayment of the Advance shall not be re-borrowed.

Interest and Maturity

- 2.3 Following the Advance, accrued interest shall be payable semi-annually in arrears on June 30 and December 31 in each year, 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.

- 2.4 Interest shall accrue on the amount of the Loan from the date of the Advance at the fixed rate of twelve percent (12.0%) per annum.
- 2.5 Except as otherwise provided herein, the outstanding amount of the Loan, together with all accrued and unpaid interest, will be immediately due and payable by the Borrower to the Lender on the Maturity Date.
- 2.6 The Borrower shall be entitled to pre-pay, without penalty, fee or premium, on two Business Days' notice, all amounts owing hereunder.

Use of Proceeds

- 2.7 The Borrower shall use the proceeds of the Advance to repay in full the Offering Proceeds Note. The REIT covenants and agrees to use the proceeds from the repayment of the Offering Proceeds Note to redeem or repay, as applicable, the Convertible Debentures and pay any accrued and unpaid interest and any other amounts relating to the Convertible Debentures, in order to discharge the REIT's obligations thereunder in full.

Computations

- 2.8 The rates of interest under this Agreement are nominal rates, and not effective rates or yields. Unless otherwise stated, wherever in this Agreement reference is made to a rate of interest "per annum" or a similar expression is used, such interest shall be calculated on the basis of a year of 365 or 366 (as the case may be) days for the actual number of days occurring in the period for which any such interest is payable. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest to be paid hereunder or in connection herewith is to be calculated on the basis of a 365 or 366 (as the case may be) day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 365 or 366 (as the case may be).

Time and Place of Payments

- 2.9 All payments made by the Borrower pursuant to this Agreement shall be made before 4:00 p.m. (Edmonton, Alberta time) on the day specified for payment. Any payment received after 4:00 p.m. (Edmonton, Alberta time) on the day specified for such payment shall be deemed to have been received before 4:00 p.m. (Edmonton, Alberta time) on the immediately following Business Day. All payments shall be made to the Lender to the account and office of the Lender, as specified by the Lender.

Mandatory Prepayments

- 2.10 Following the date of the Advance and thereafter while any amount remains outstanding under the Loan, no later than five (5) Business Days following receipt by the Borrower of Net Cash Proceeds, the Borrower shall pay to the Lender, as a prepayment against the Loan, an amount equal to 50% of such Net Cash Proceeds.

REIT Guarantee

- 2.11 The REIT hereby unconditionally guarantees to the Lender the due and punctual payment by the Borrower of all amounts owing hereunder by the Borrower to the extent that should Borrower default in the due and punctual payment of any such amount, the REIT shall pay such amounts to the Lender on demand. The guarantee of the Borrower's obligations hereunder is a continuing guarantee and shall be irrevocable and remain in full force and effect until amounts owing hereunder by the Borrower have been paid or satisfied in full. The REIT's guarantee of the

Borrower's obligations hereunder is a principal obligation and not merely the obligation of a surety and the Lender shall not be required to proceed against the Borrower or exhaust any remedies it may have against the Borrower but shall be entitled to demand and receive payment and performance from the REIT when any payment or performance is due under this Agreement.

ARTICLE 3 LENDER'S CONDITIONS PRECEDENT

Lender's Conditions Precedent to Advance

3.1 The obligation of the Lender to make the Advance under this Agreement is subject to and conditional upon the earlier of the following events occurring:

- (a) a Proposed Transaction is not consummated for any reason whatsoever (other than as a result of the REIT entering into a Superior Proposal Agreement) on or before the Deadline; and
- (b) the date on which the Borrower, the REIT and the Lender agree in writing to deliver a Redemption Notice to the holders of the Convertible Debentures pursuant to Section 2.1(c) of the Supplemental Indenture,

provided in either case the following conditions precedent are satisfied, fulfilled or otherwise met on the date of the Advance:

- (c) no Event of Default has occurred and is continuing;
- (d) ATB shall have provided its written consent to this Agreement and the making of the Advance to the Borrower, such consent to be in form and content to the satisfaction of the Lender acting reasonably;
- (e) the Lender shall have received a Utilization Request requesting the Advance; and
- (f) the Borrower and/or the REIT has paid to the debenture trustee an amount equal to the accrued but unpaid interest payable on the Debentures on the Redemption Date or Debenture Maturity Date, as applicable.

Waiver

3.2 The conditions in Section 3.1 are inserted for the benefit of the Lender and, other than the condition set out in Section 3.1(e), may be waived by the Lender, in whole or in part, with or without conditions.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

Representations and Warranties of the Borrower and the REIT

4.1 The Borrower and the REIT hereby jointly and severally represent and warrant to the Lender as of the date hereof and at the date of the Advance (if any) that:

- (a) each has been duly formed under the laws of its jurisdiction of formation and is validly existing;
- (b) each has full power and capacity to enter into this Agreement and to execute and deliver all documents as are required hereunder to be executed and delivered by it in accordance

with the terms hereof, and it has taken all necessary corporate or trust action, as applicable, to duly authorize the entering into, execution, delivery and performance of this Agreement;

- (c) each has duly authorized, executed and delivered this Agreement; and
- (d) this Agreement will create legal, valid and binding obligations of the Borrower and the REIT enforceable against it in accordance with its terms.

4.2 The Lender shall not be entitled to assert as a breach any inaccuracy in any representation or warranty of the REIT or the Borrower contained herein if, as of the date of this Agreement, the Lender or its representatives had knowledge of the inaccuracy or breach of such representation or warranty.

ARTICLE 5 COVENANTS

Covenants of the Borrower and the REIT

- 5.1 Each of the Borrower and the REIT covenant and agree with the Lender as follows:
- (a) it will maintain its existence;
 - (b) it will comply and conduct its business in such a manner so as to comply in all material respects with Applicable Law; and
 - (c) in the event that the Lender ceases to be the manager of the REIT pursuant to the Asset Management Agreement and/or the Property Management Agreement after the Advance, the Borrower and the REIT shall provide to the Lender such financial statements (annual and quarterly), management discussion and analysis of financial condition and results of operation and financial forecasts as are required to be provided to the lenders pursuant to the Senior Credit Agreement (or any replacement thereof).

Covenants of the Lender

5.2 The Lender covenants and agrees with the Borrower and the REIT that the Lender will not, and will cause its representatives to not, take or fail to take any action, including in its capacity as a unitholder of the REIT, manager of the REIT, or as a counterparty to the REIT in the various contractual arrangements between the Lender and the REIT, to frustrate, obstruct the completion of or otherwise prevent or delay the transactions contemplated by this Agreement, or, to cause an Event of Default hereunder.

ARTICLE 6 DEFAULT AND ENFORCEMENT

Events of Default

- 6.1 The occurrence of any one or more of the following events shall constitute an **"Event of Default"** hereunder:
- (a) the Borrower fails to make any interest payment payable hereunder when due, and such failure continues after the expiry of fifteen (15) days following written notice of such failure by the Lender to the Borrower;

- (b) the Borrower fails to make any payment of any principal amount of the Loan payable hereunder when due, and such failure continues after the expiry of seven (7) days following written notice of such failure by the Lender to the Borrower;
- (c) the Borrower defaults in observing or performing any covenant of this Agreement and such default continues unremedied or waived after the expiry of thirty (30) days following written notice of such default by the Lender to the Borrower;
- (d) this Agreement ceases to be in full force and effect;
- (e) the institution by the Borrower of proceedings to be adjudicated a bankrupt or insolvent or the seeking by it of liquidation, reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise) or relief under any Applicable Law relating to bankruptcy, insolvency, reorganization or relief of debtors, or the filing by it of any such petition or to the appointment under any such Applicable Law of a receiver, administrator, receiver-manager, liquidator, assignee or trustee of all or substantially all of the Borrower's property, or the making by it of a general assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due or any proceedings are commenced by a Person other than the Borrower for the bankruptcy, insolvency, administration, reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise), winding-up, liquidation or dissolution of the Borrower; provided that the foregoing shall not apply to any proceedings which are frivolous or vexatious and/or are discharged, stayed or dismissed within ninety (90) days of commencement;
- (f) any representation or warranty given by the Borrower in this Agreement shall prove to be incorrect and such incorrectness continues unremedied or waived after the expiry of thirty (30) days following written notice of such incorrectness by the Lender to the Borrower; or
- (g) the occurrence of an event of default which is continuing under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any funded financial indebtedness for money borrowed by the Borrower, which event of default results in the acceleration of such indebtedness prior to its express maturity and is not rescinded or cured within 60 days after such acceleration, and the principal amount of such indebtedness, together with the principal amount of any other such indebtedness under which there has been a similar event of default or the maturity of which has been so accelerated and remains undischarged after such 60 day period at that time, exceeds \$30,000,000.00, individually or in aggregate.

Acceleration on Default

- 6.2 If any Event of Default shall occur and be continuing, the Lender may declare, upon written notice to the Borrower, the entire unpaid amount of the Loan to be forthwith due and payable, whereupon the principal amount of the Loan and such interest shall become and be immediately due and payable.

Waiver of Default

- 6.3 If an Event of Default shall have occurred, the Lender shall have the power to waive such Event of Default if, in the Lender's opinion, the same shall have been cured or adequate provision made therefor, upon such terms and conditions as the Lender may consider advisable, provided that no delay or omission of the Lender to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein and provided further that no act or omission of the Lender shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default hereunder or the rights resulting therefrom.

Enforcement by the Lender

6.4 If an Event of Default shall have occurred, but subject to Section 6.3, the Lender may in its sole discretion proceed to enforce the rights of the Lender by any action, suit, remedy or proceeding authorized or permitted by this Agreement or by Applicable Law; and may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Lender lodged, filed or otherwise recorded in any bankruptcy, administration, insolvency, winding-up or other judicial proceedings relating to the Borrower.

Application of Moneys

6.5 Any moneys arising from any enforcement by the Lender under this Agreement shall be held by the Lender and applied by it as follows:

- (a) first, in payment or reimbursement to the Lender of the reasonable costs and expenses, incurred in the enforcement of this Agreement;
- (b) second, in or towards payment of all accrued but unpaid interest hereunder;
- (c) third, in or towards repayment of the principal amount of the Loan; and
- (d) fourth, the surplus of such moneys shall be paid to the Borrower or as the Borrower may direct.

Remedies Cumulative

6.6 No remedy herein conferred upon or reserved to the Lender is intended to be exclusive of any other remedy.

ARTICLE 7 NOTICES

Notice to the Borrower

7.1 Any notice to the Borrower and/or the REIT under the provisions of this Agreement shall be valid and effective if delivered personally, by email or courier or, if given by registered mail, postage prepaid, addressed to the Borrower at 900, 10310 Jasper Avenue NW, Edmonton, Alberta T5J 1Y8, Email: [REDACTED], Attention: Richard Kirby, and shall be deemed to have been given on the date of personal delivery if on a Business Day and otherwise on the next Business Day, on the date of sending if by courier or email if so delivered or sent prior to 5:00 p.m. (Edmonton time) on a Business Day and otherwise on the next Business Day, or on the fifth Business Day after such letter has been mailed, as the case may be. The Borrower may from time to time notify the Lender of a change in address which thereafter, until changed by further notice, shall be the address of the Borrower for all purposes of this Agreement.

Notice to the Lender

7.2 Any notice to the Lender under the provisions of this Agreement shall be valid and effective if delivered personally, by email, courier or, if given by registered mail, postage prepaid, addressed to the Lender at 900, 10310 Jasper Avenue NW, Edmonton, Alberta T5J 1Y8, Email: [REDACTED], Attention: Naomi Stefura, and shall be deemed to have been given on the date of personal delivery if on a Business Day and otherwise on the next Business Day, on the date of sending if by courier or by email if so delivered prior to 5:00 p.m. (Edmonton time) on a Business Day and otherwise on the next Business Day or on the fifth Business Day after such letter has been mailed, as the case may be. The Lender may from time to time notify the Borrower of a

change in address which thereafter, until changed by further notice, shall be the address of the Lender for all purposes of this Agreement.

- 7.3 Where the REIT or Borrower is required to notify, inform or otherwise provide information to the Lender hereunder, notification shall be deemed to have been made if the Designated Cross Trustee has knowledge of the information that would otherwise have been required to be contained in the notice delivered to the Lender.

ARTICLE 8 TERMINATION

Termination

- 8.1 This Agreement shall automatically terminate and be of no further force or effect immediately upon:
- (a) the REIT entering into a Superior Proposal Agreement if the Advance has not been made;
 - (b) the consummation of a Proposed Transaction if the Advance has not been made;
 - (c) the REIT and/or the Borrower, having first complied with Article 9, executing a definitive agreement with respect to a Debenture Take-out Proposal;
 - (d) the date that is sixty (60) days after the date the REIT enters into a Superior Proposal Agreement, provided the Advance has been made;
 - (e) the date that the REIT undergoes a Change of Control, whether or not the Advance has been made; and
 - (f) repayment in full of the outstanding Loan,

and thereafter the parties shall have no further obligation, liability or debt to each other hereunder. For clarity, if any amount of the Loan remains outstanding as of the Termination Date, the Loan (including all accrued and unpaid interest) shall be fully due and repaid on such Termination Date.

ARTICLE 9 RIGHT TO MATCH

- 9.1 If the Borrower and/or the REIT receives a *bona fide* Debenture Take-out Proposal that the Borrower and/or the REIT is prepared to accept, the Borrower and/or REIT may enter into a definitive agreement with respect to such Debenture Take-out Proposal, if and only if:
- (a) the Person making the Debenture Take-out Proposal was not restricted from making such Debenture Take-out Proposal pursuant to any existing confidentiality, standstill or similar restriction to which the Borrower or the REIT is party;
 - (b) such Debenture Take-out Proposal did not arise, directly or indirectly, as a result of a violation by the REIT, directly or indirectly, of any other agreement between the Lender, the Borrower and/or the REIT in any material respect;
 - (c) the Borrower and the REIT shall have provided the Lender with (i) written notice (the "**Debenture Take-out Proposal Notice**") of the intention of the Borrower and/or the REIT to enter into such definitive agreement and (ii) a copy of the proposed definitive agreement for the Debenture Take-out Proposal and all schedules and exhibits thereto;

- (d) at least five (5) Business Days (the “**Matching Period**”) have elapsed from the date that is the later of the date on which the Lender received the Debenture Take-out Proposal Notice and the date on which the Lender received a copy of all the other material set forth in Section 9.1(c); and
 - (e) prior to or concurrently with entering into a definitive agreement with respect to such Debenture Take-out Proposal, the Borrower and the REIT terminate this Agreement pursuant to Section 8.1(c).
- 9.2 During the Matching Period, or such longer period as the REIT may approve in writing for such purpose, the Lender shall have the right, but not the obligation, to offer in writing to amend the terms of this Agreement to match the Debenture Take-out Proposal (a “**Matching Amendment**”). If the Lender issues a Matching Amendment, the Parties shall amend this Agreement to give effect to the Matching Amendment and shall take and cause to be taken all such actions as are necessary to give effect to the foregoing.
- 9.3 Each successive material amendment to any Debenture Take-out Proposal from the same Person shall constitute a new Debenture Take-out Proposal for the purposes of this Article 9 and the Lender shall be afforded the rights set forth in this Article 9 with respect to such new Debenture Take-out Proposal, including the five (5) Business Day Matching Period.

ARTICLE 10 MISCELLANEOUS

Amendments and Waivers

- 10.1 No amendment to any provision of this Agreement shall be effective unless it is in writing and has been signed by the Lender, the Borrower and the REIT.

Survival

- 10.2 All covenants made in this Agreement shall survive the execution and delivery of this Agreement, and shall continue in full force and effect so long as the Loan remains outstanding.

Benefits of Agreement

- 10.3 This Agreement is entered into for the sole protection and benefit of the parties hereto and their successors and assigns, and no other Person shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, this Agreement.

Binding Effect; No Assignment

- 10.4 This Agreement shall become effective when it shall have been executed by the parties hereto. Neither the Borrower and the REIT nor the Lender shall have the right to transfer and/or assign any of its rights and/or obligations hereunder or any interest herein without the prior written consent of the Lender or Borrower and the REIT, respectively.

Entire Agreement

- 10.5 This Agreement reflects the entire agreement between the parties hereto with respect to the matters set forth herein and supersedes any prior agreements, commitments, drafts, communication, discussions and understandings, oral or written, with respect thereto.

Severability

10.6 Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under all Applicable Laws. If, however, any provision of any of this Agreement shall be prohibited by or invalid under any such Applicable Law in any jurisdiction, it shall, as to such jurisdiction, be deemed modified to conform to the minimum requirements of such Applicable Law, or, if for any reason it is not deemed so modified, it shall be ineffective and invalid only to the extent of such prohibition or invalidity without affecting the remaining provisions of this Agreement, or the validity or effectiveness of such provision in any other jurisdiction.

Time of Essence

10.7 Time shall be of the essence of this Agreement.

Counterparts and facsimile

10.8 This Agreement may be executed in counterparts and such executed counterparts may be delivered by electronic transmission of an authorized signature (including in pdf or via DocuSign) and each such counterpart shall be deemed to form part of one and the same document.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed this Agreement under the hands of their proper officers duly authorized in that behalf.

MELCOR REAL ESTATE INVESTMENT TRUST

Per: _____
Andrew Melton
Chief Executive Officer and Trustee

Per: _____
Naomi Stefura
Chief Financial Officer

**MELCOR REIT LIMITED PARTNERSHIP, by its
general partner, MELCOR REIT GP INC.**

Per: _____
Andrew Melton
Director

Per: _____
Naomi Stefura
Chief Financial Officer

MELCOR DEVELOPMENTS LTD.

Per: _____
Naomi Stefura
Chief Operating Officer and Chief Financial Officer

Per: _____
Timothy Melton
Chief Executive Officer