

# MELCOR REIT 2022 MANAGEMENT INFORMATION CIRCULAR

All Unitholders are Invited to Our Annual Online Meeting:

<https://www.gowebcasting.com/11744>

Thursday, May 19, 2022

9:30 MT

## **Your Vote is Important**

Please follow the instructions on page 10 to vote your proxy.

**PHONE**



**MAIL**



**ONLINE**



## Date of Information

All information contained in this Management Information Circular (circular) is as of March 30, 2022 unless otherwise stated.

## Other Information

Additional information about Melcor REIT (the REIT), including our annual information form and annual and quarterly reports, is available on SEDAR at [www.sedar.com](http://www.sedar.com).

## Forward-looking Statements

In order to provide our investors with an understanding of our current results and future prospects, our public communications often include written or verbal forward-looking statements.

Forward-looking statements are disclosures regarding possible events, conditions, or results of operations that are based on assumptions about future economic conditions, courses of action and include future-oriented financial information.

This Management Information Circular and other materials filed with the Canadian securities regulators contain statements that are forward-looking. These statements represent the REIT's intentions, plans, expectations, and beliefs and are based on our experience and our assessment of historical and future trends, and the application of key assumptions relating to future events and circumstances. Forward-looking statements may involve, but are not limited to, comments with respect to our strategic initiatives for 2022 and beyond, future leasing, acquisition and financing plans and objectives, targets, expectations of the real estate, financing and economic environments, our financial condition, or the results of or outlook for our operations.

By their nature, forward-looking statements require assumptions and involve risks and uncertainties related to the business and general economic environment, many beyond our control. There is significant risk that the predictions, forecasts, valuations, conclusions or projections we make will not prove to be accurate and that our actual results will be materially different from targets, expectations, estimates or intentions expressed in forward-looking statements. We caution readers of this document not to place undue reliance on forward-looking statements. Assumptions about the performance of the Canadian economy and how this performance will affect the REIT's business are material factors we consider in determining our forward-looking statements. For additional information regarding material risks and assumptions, please see the discussion "Business Environment & Risks" in our annual Management Discussion and Analysis (MD&A) for the year ended December 31, 2021, which is incorporated by reference.

Readers should carefully consider these factors, as well as other uncertainties and potential events, and the inherent uncertainty of forward-looking statements. Except as may be required by law, we do not undertake to update any forward-looking statement, whether written or oral, made by the REIT or on its behalf. In order to provide our investors with an understanding of our current results and future prospects, our public communications often include written or verbal forward-looking statements.

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## OUR 9th MEETING OF UNITHOLDERS

**Dear Fellow Unitholders:**

On behalf of the REIT's Board of Trustees and our management team, I invite you to attend the 2022 virtual annual special meeting of unitholders. This year, we are pleased to host a fully virtual meeting. We encourage you to attend from the comfort and safety of your home or office where possible. You will be able to ask questions during the meeting; however all voting will need to take place in advance via proxy.

**WHERE:**

**VIRTUAL AGM:**

<https://www.gowebcasting.com/11744>

**WHEN:**

Thursday, May 19, 2022

9:30 MT

In 2021, our Board of Trustees formed an Independent Committee to, among other things, review the asset and property management agreements with Melcor Developments Ltd. As a result of this review, the Committee has suggested amendments to both agreements to provide greater flexibility with respect to internalization of our assets and/or property management, as well as to ensure that the REIT is competitively positioned to attract tenant prospects by changing the lease fee structure to industry standard rates where leasing services are provided by Melcor Developments. The REIT will directly pay lease fees to third party brokers whereas in the past Melcor paid on behalf of the REIT and then billed the REIT. As a result of these changes our upcoming AGM is a Special Meeting where unitholders will be asked to approve the agreements.

All other business items to be dealt with at the meeting are described in this notice of meeting and management information circular.

Additional documentation and information concerning the REIT, including our annual report, is available on our website at [www.melcorREIT.ca](http://www.melcorREIT.ca) as well as at [www.SEDAR.com](http://www.SEDAR.com).

We encourage you to vote in advance by any of the means available to you, as described on page 10 as no vote will take place at the meeting.

Sincerely,



Andrew Melton  
Chief Executive Officer  
Melcor REIT

**PLEASE NOTE: THIS YEAR, IN RESPONSE TO THE COVID-19 PANDEMIC, AND IN ORDER TO CONDUCT THE MEETING IN A MANNER THAT PROTECTS THE HEALTH AND SAFETY OF THE TRUSTEES, OFFICERS AND UNITHOLDERS, AND THE PUBLIC AT LARGE, AND HAVING REGARD TO THE DIRECTIVES FROM PUBLIC HEALTH AND GOVERNMENT AUTHORITIES FOR GROUP GATHERINGS AND SOCIAL DISTANCING, THE MEETING WILL NOT BE HELD ON AN IN-PERSON BASIS. RATHER, THE MEETING WILL BE WEBCAST WITH VOTING ONLY BY INSTRUMENT OF PROXY. VOTING MUST BE COMPLETED BY THE PROXY DEADLINE.**

# NOTICE OF MEETING

## WHERE:

### VIRTUAL ANNUAL SPECIAL MEETING:

<https://www.gowebcasting.com/11744>

## WHEN:

Thursday, May 19, 2022

9:30 AM MT

## RECORD DATE:

March 30, 2022

## AT THE SPECIAL MEETING YOU WILL BE ASKED TO:

1. Receive the consolidated financial statements of the REIT for the fiscal year ended December 31, 2021, together with the auditor's report on those statements;
2. Fix the number of Trustees to be elected at six (6);
3. Elect Trustees to the Board of the REIT;
4. Appoint PricewaterhouseCoopers LLP, Chartered Accountants, as the REIT's auditors for the ensuing year at remuneration to be fixed by the Board of Trustees;
5. Approve the REIT entering into an amended and restated asset management agreement with Melcor Developments Ltd.;
6. Transact any other business properly brought before the meeting, or any adjournment thereof.

Please read through this circular for more detailed information on the matters that will be considered and voted on at the meeting.

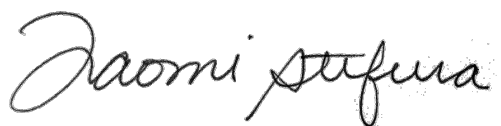
**YOUR VOTE IS IMPORTANT:** Please follow the instructions for completing and returning the enclosed form of proxy.

Please note that the REIT has opted to use the notice-and-access model for delivery of meeting materials to unitholders. Under notice-and-access, unitholders will receive a Notice-and-Access Notification with instructions on how to access our proxy material for the fiscal year ended December 31, 2021. This Notice also provides instructions on how to vote online and how to request a paper copy of the proxy materials to be delivered by mail. For your vote to be recorded, it must be received by our transfer agent, Odyssey Trust Company, no later than 9:30 AM MT on May 17, 2022.

Unitholders as at March 30, 2022 (the record date) will be entitled to vote via proxy by the proxy deadline.

Dated as of the 30th day of March, 2022.

BY ORDER OF THE BOARD OF TRUSTEES



Naomi Stefura  
Chief Financial Officer and Corporate Secretary  
Melcor REIT

### IMPORTANT NOTICE REGARDING AVAILABILITY OF MATERIALS

Proxy materials, including our 2021 Annual Report, are available online:

[www.sedar.com](http://www.sedar.com)

[www.MelcorREIT.ca/2022AGM](http://www.MelcorREIT.ca/2022AGM)

To request a paper copy, please see instructions on page 4 "Requesting Paper Copies"



## GENERAL INFORMATION

### Meeting

This circular provides unitholders with information to help make voting decisions at the annual meeting (the AGM or meeting) of the REIT to be held on May 19, 2022.

### Notice-and-Access

The REIT has elected to use notice-and-access rules which allow the REIT to post electronic versions of proxy-related materials online without mailing such documents directly to unitholders, provided that notice of such posting is sent to unitholders by mail.

All unitholders, except those who have previously requested to receive paper copies of the REIT's financial information, will receive only a notice-and-access notification and a voting instruction form. If you receive the notice and would like to receive a paper copy of our proxy-related materials, financial statements or MD&A, please follow the instructions under the heading Requesting Paper Copies.

All materials will be forwarded to unitholders at the REIT's expense.

We anticipate that notice-and-access will directly benefit the REIT through substantial reductions in postage and printing costs. We believe that notice-and-access is an environmentally responsible method of communicating with unitholders by reducing the large volume of paper documents generated by printing proxy-related materials.

Unitholders with questions about notice-and-access can contact us via the following toll free numbers:

|                               |                                  |
|-------------------------------|----------------------------------|
| <b>Melcor REIT:</b>           | 1-855-673-6931 x4707 (toll-free) |
| <b>Odyssey Trust Company:</b> | 1-888-290-1175                   |

### Requesting Paper Copies

In order to receive a paper copy of the REIT's proxy-related materials, financial statements or MD&A, requests by unitholders may be made up to one year from the date the circular was filed on SEDAR. Please direct your request for materials to:

#### Melcor REIT

|                 |   |
|-----------------|---|
| <b>By Mail:</b> | Investor Relations<br>900, 10310 Jasper Avenue<br>Edmonton, Alberta T5J 1Y8 |
|-----------------|---|

|                  |                      |
|------------------|----------------------|
| <b>By Phone:</b> | 1-855-673-6931 x4707 |
|------------------|----------------------|

|                  |                  |
|------------------|------------------|
| <b>By Email:</b> | ir@melcorreit.ca |
|------------------|------------------|

The REIT estimates that unitholder requests for paper copies of the circular, financial statements and MD&A will need to be received prior to May 5, 2022 in order to have sufficient time to receive and review the materials requested and return the completed form of proxy by the due date described under Voting Instructions on page 10.

We do not intend to pay intermediaries to forward proxy-related materials to objecting beneficial owners.

### Registered and Beneficial Unitholders

You are a registered holder of REIT units if your units are held in your name and you have a trust unit certificate.

You are a beneficial holder of REIT units if your units are held in the name of a nominee such as a bank, trust company, securities broker, Trustee or other institution.

All references to unitholders in this circular and the accompanying form of proxy are to registered unitholders unless specifically stated otherwise. Where documents are stated to be available for review or inspection, such items will be shown upon request to a registered unitholder who produces proof of their identity.

# FREQUENTLY ASKED QUESTIONS ABOUT THE MEETING

## Who is soliciting my proxy?

The enclosed form of proxy is solicited by the REIT's management in order to vote your units as you instruct at the annual meeting of unitholders. We pay the cost of proxy solicitation for all registered and non-objecting beneficial unitholders. We do not pay for intermediaries to forward information to objecting beneficial owners (OBOs). OBOs will not receive proxy materials unless the OBOs intermediary assumes the cost of delivery.

We are soliciting proxies mainly by mail. However, certain employees of Melcor Developments Ltd. (Melcor Developments) may also solicit proxies by email, telephone or in person.

## What will I be voting on?

Unitholders will vote to:

- Fix the number of members of the Board of Trustees to be elected at the meeting at six (6)
- Elect the Trustees
- Appoint PricewaterhouseCoopers LLP as auditors
- Approve the REIT entering into an amended and restated asset management agreement with Melcor Developments
- Other business, if any

## How will these matters be decided at the Meeting?

A majority of the votes cast by proxy will constitute approval of matters at the meeting.

## Who counts the votes?

Proxies will be counted and tabulated by the REIT's transfer agent, Odyssey Trust Company.

## How can I contact the Transfer Agent?

By Mail: Odyssey Trust Company  
702 67 Yonge St  
Toronto, ON M5E 1J8

By Phone: 1-888-290-1175

Online: <https://odysseycontact.com/>

## How many votes do I have?

You will have one vote for each unit you held at the close of business on March 30, 2022 (the record date).

## What if I acquired my units after March 30, 2022?

To vote units you acquired after the record date, you must, not later than 10 days before the AGM:

- Request that your name be added to the voters' list; and
- Produce a properly endorsed unit certificate or otherwise establish that you own the units

## How will my proxy be voted?

On your form of proxy, you may indicate how you wish your proxyholder to vote your trust units. Where you have specified a choice with respect to any matter to be acted upon, your units will be voted in accordance with the choice you have made.

## If you have not specified a choice, your units will be voted:

- **FOR** the fixing of the number of members of the Board of Trustees to be elected at the meeting at six (6);
- **FOR** the election of each of the proposed nominees as Trustees;
- **FOR** the appointment of PricewaterhouseCoopers LLP as auditors and authorize the Trustees to fix their remuneration.
- **FOR** the REIT entering into an amended and restated asset management agreement with Melcor Developments

## How many units are entitled to vote?

The REIT has an authorized capital consisting of an unlimited number of units and an unlimited number of special voting units, each carrying the right to vote. As of the close of business on March 30, 2022, there were 12,963,169 units issued and outstanding and 16,125,147 special voting units issued and outstanding (all held by Melcor Developments through an affiliate).

## How do I vote?

See Voting Instructions, page 10.

## What is quorum for the meeting?

The REIT's Amended and Restated Declaration of Trust provides that a quorum for the transaction of business at any meeting of unitholders shall be at least two (2) persons present in person or represented by proxy, each being a unitholder entitled to vote or their appointed proxyholder, and representing in the aggregate no less than ten (10%) percent of the REIT's outstanding units carrying voting rights.

## What if there are amendments or if other matters are brought before the meeting?

The enclosed form of proxy gives the persons named on it authority to use their discretion in voting on amendments or variations to matters identified in the notice.

Management is not aware of any other matter to be presented for action at the meeting.

## Are there any principal unitholders?

To the best knowledge of the Trustees and officers of the REIT, and based on public filings as of March 30, 2022 no person or entity beneficially owns, directly or indirectly, or exercises control or direction over more than ten percent (10%) of the votes attached to all voting units, other than the following:

| Name of Unitholder       | Voting Units Beneficially Owned | Percentage of Outstanding Voting Units |
|--------------------------|---------------------------------|--|
| Melcor Development Ltd.* | 16,125,147 special voting units | 55.4%                                  |

*\*Melcor Developments, through an affiliate, holds an approximate 55.4% effective interest in the REIT through ownership of 16,125,147 Class B LP units of the Melcor REIT Limited Partnership and a corresponding number of special voting units of the REIT.*

# BUSINESS TO BE CONDUCTED AT THE MEETING

**In the absence of proxy instructions, management proxyholders will vote FOR all matters outlined below.**

## 1. RECEIVE FINANCIAL STATEMENTS

The REIT's audited consolidated financial statements for the year ended December 31, 2021 will be placed before the unitholders for their consideration. These audited consolidated financial statements have been reviewed and recommended for approval by the Audit Committee and approved by the full Board of Trustees. A copy of the audited consolidated financial statements is available on our website at [www.melcorREIT.ca](http://www.melcorREIT.ca).

*Unitholders are not required to vote on these audited consolidated financial statements.*

## 2. FIX NUMBER OF TRUSTEES

We propose that the number of Trustees to be elected to the Board at the meeting be six (6). Management intends to place before the meeting, for approval, with or without modification, a resolution fixing the number of Trustees to be elected at the meeting at six (6).

*The Board recommends you vote **FOR** fixing the Trustees at 6 for the AGM; however, notes that additional Trustees may be appointed between AGMs.*

## 3. ELECT TRUSTEES

You will elect 6 Trustees to serve on our Board until the close of the next annual meeting or until their successors are elected or appointed. You will find information about each Trustee nominee beginning on page 11. We, the Board and management of the REIT, believe the nominees are well qualified to serve as Trustees. All nominees have confirmed their eligibility and willingness to serve.

If for any reason any of the proposed nominees do not stand for election or are unable to serve as such, proxies in favour of management designees will be voted for another nominee at their discretion unless the unitholder has specified in his proxy that the units are to be withheld from voting in the election of Trustees.

*The Board recommends you vote **FOR** each nominated Trustee.*

## MAJORITY VOTING POLICY

We have a majority voting policy. Any nominee in an uncontested election who receives more withhold votes than votes in his or her favour shall be considered to not have received the support of unitholders and is expected to immediately resign from the Board.

The majority voting policy does not apply to a contested election where the number of nominees exceeds the number of Trustees to be elected.

Nominees for election to the Board must agree to the policy before they are recommended to unitholders.

In the event any Trustee fails to tender his or her resignation in accordance with the policy, the Board will not re-nominate the Trustee.

## EMPLOYMENT EQUITY & DIVERSITY POLICY

Our employment equity & diversity policy applies to all positions at the REIT, including Trustees. See Appendix E for our employment equity & diversity policy.

## 4. APPOINT AUDITORS

You will vote on appointing PricewaterhouseCoopers LLP, Chartered Accountants (PwC), as the REIT's auditors until the next meeting of unitholders and to authorize the Board to fix the auditors remuneration. PwC have been the REIT's auditors since the REIT became public on May 1, 2013.

The following table shows the fees we have paid to PwC in 2021 and 2020:

|                                 | 2021              | 2020              |
|---------------------------------|-------------------|-------------------|
| Audit fees <sup>1</sup>         | \$ 176,475        | \$ 218,000        |
| Audit-related fees <sup>2</sup> | 43,200            | 42,900            |
| Tax fees <sup>3</sup>           | 10,000            | 10,000            |
| All other fees <sup>4</sup>     | 33,300            | 32,100            |
| <b>Total</b>                    | <b>\$ 262,975</b> | <b>\$ 303,000</b> |

1. Audit fees include the 2021 audit plan, changes in auditing standards and COVID-19 incremental procedures.

2. Audit-related fees include quarterly reviews.

3. Tax fees include tax compliance services and tax advisory and planning services.

4. All other fees include services rendered for advice related to accounting policies.

Additional information regarding the REIT's Audit Committee (required in accordance with National Instrument 52-110 – "Audit Committees") is contained in the REIT's annual information form dated March 3, 2022 under the heading "Audit Committee," and a copy of the Terms of Reference of the Audit Committee is attached to the annual information form as Schedule "A." The REIT's annual information form is available on SEDAR at [www.sedar.com](http://www.sedar.com).

*The Board recommends you vote **FOR** appointing PwC.*

## 5. AMENDED AND RESTATED ASSET AND PROPERTY MANAGEMENT AGREEMENTS

In connection with the REIT's initial public offering on May 1, 2013, the REIT entered into an asset management agreement (the "Asset Management Agreement") and a property management agreement (the "Property Management Agreement") with Melcor Developments.

Pursuant to the Asset Management Agreement, Melcor Developments provides asset management services to the REIT, including: (a) advisory, consultation and investment management services and monitoring financial performance, (b) providing the services of members of Melcor Developments' senior management team to act as Chief Executive Officer and Chief Financial Officer, and (c) advising the Board on strategic matters, including potential acquisitions, dispositions, financings and development. In providing the asset management services, Melcor Developments is required to exercise the degree of care, diligence, judgment and skill that would be exercised by a professional, prudent and competent person who is experienced in providing substantially similar services. For additional information with respect to the Asset Management Agreement, see the section entitled "Asset Management Agreement" in the REIT's Annual Information Form dated March 3, 2022 (which section is incorporated by reference herein). The Asset Management Agreement is also available on SEDAR at [www.sedar.com](http://www.sedar.com).

Pursuant to the Property Management Agreement, Melcor Developments provides property management services to the REIT, including (a) managing and administering the day-to-day operations of the REIT and its subsidiaries, (b) conducting the day-to-day relations with respect to the REIT's investment properties with third parties, including suppliers, brokers, consultants, advisors, accountants, lawyers, insurers and appraisers, and (c) supervising investment property expansions, capital projects and development projects. In providing the property management services, Melcor Developments is required to exercise the degree of care, diligence, judgment and skill that would be exercised by a professional, prudent and competent person who is experienced in providing substantially similar services. For additional information with respect to the Property Management Agreement, see the section entitled "Property Management Agreement" in the REIT's Annual Information Form dated March 3, 2022 (which section is incorporated by reference herein). The Property Management Agreement is also available on SEDAR at [www.sedar.com](http://www.sedar.com).

In 2021, the REIT formed an independent committee (the "Independent Committee") of independent Trustees whose mandate included a review of the Asset Management Agreement and the Property Management Agreement.

### Termination Rights of the REIT Under the Asset Management Agreement

Pursuant to the Asset Management Agreement, the REIT has the right to terminate such agreement:

- a. upon the occurrence of any of the following events:
  - i. an event of insolvency of Melcor Developments;
  - ii. a material breach by Melcor Developments under the Asset Management Agreement, if such material breach is not cured within 30 days after receipt by Melcor

Developments of written notice from the REIT with respect thereto unless Melcor Developments has commenced rectification of such material breach within such 30 day period;

- iii. fraudulent misconduct of, or misappropriation of funds by, Melcor Developments;
  - iv. an act of gross negligence by Melcor Developments;
  - v. a default by Melcor Developments under the development and opportunities agreement (the "Development and Opportunities Agreement") dated May 1, 2013 between the REIT and Melcor Developments, that results in the termination by the REIT of such agreement;
  - vi. a default by Melcor Developments under the Property Management Agreement, that results in the termination by the REIT of such agreement; or
  - vii. a default by Melcor Developments under the restrictive covenant agreement (the "Restrictive Covenant Agreement") dated May 1, 2013 between the REIT and Melcor Developments;
- b. upon a change of control of Melcor Developments, subject to the reimbursement of certain employee severance costs;
  - c. at the end of a term or renewal term if a majority of the independent Trustees of the REIT determine that Melcor Developments has not been meeting its obligations under the Asset Management Agreement and such termination is approved by a majority of the votes cast by unitholders (including holders of special voting units) at a meeting of unitholders called and held for such purpose, provided that the REIT provides Melcor Developments with at least 12 months' prior written notice of such termination, or payment in lieu thereof (the "Non-Gross Book Value Based Termination Right"); or
  - d. upon the REIT achieving a Gross Book Value (defined as the REIT's assets plus accumulated amortization on property, plant and equipment) of \$1.15 billion, if a majority of the independent Trustees of the REIT determine that it is in the best interests of the REIT to internalize asset management services, provided that the REIT provides Melcor Developments with at least 12 months' prior written notice of such termination, or payment in lieu thereof (the "Gross Book Value Based Termination Right").

### Proposed Amended and Restated Asset Management Agreement

As a result of its deliberations and having regard to the REIT's current Gross Book Value of approximately \$766,457,000, the Independent Committee concluded that it would be desirable and appropriate for the REIT to have greater flexibility with respect to internalization of asset management services. With such conclusion in mind, the Independent Committee proposed to Melcor Developments that the Asset Management Agreement be amended to (a) remove both the Non-Gross Book Value Based Termination Right and the Gross Book Value Based Termination Right, and (b) give to the REIT the right to terminate the Asset Management Agreement, on one (1) year's prior written notice (or payment in lieu thereof) if a majority of the independent Trustees (i) determine that it is in the best interest of the REIT to internalize asset management services; or (ii) are not satisfied

with the performance by Melcor Developments of its duties under the Asset Management Agreement.

Such proposed amendments are reflected in the amended and restated asset management agreement (the "Amended and Restated Asset Management Agreement") attached hereto as Schedule "A", the form of which has been settled with Melcor Developments but has not been executed.

The summary of the proposed amendments to the Asset Management Agreement does not purport to be complete and is subject to, and qualified in its entirety by, reference to the terms of the Amended and Restated Asset Management Agreement.

#### Termination Rights of the REIT Under the Property Management Agreement

Pursuant to the Property Management Agreement, the REIT has the right to terminate such agreement:

- a. Upon the occurrence of any of the following events:
  - i. an event of insolvency of Melcor Developments;
  - ii. a material breach by Melcor Developments under the Property Management Agreement, if such material breach is not cured within 30 days after receipt by Melcor Developments of written notice from the REIT with respect thereto unless Melcor Developments has commenced rectification of such material breach within such 30 day period and thereafter promptly, diligently and continuously proceeds with the rectification of such breach;
  - iii. fraudulent misconduct of, or misappropriation of funds by, Melcor Developments;
  - iv. an act of gross negligence by Melcor Developments;
  - v. a default by Melcor Developments under the Development and Opportunities Agreement, that results in the termination by the REIT of such agreement;
  - vi. a default by Melcor Developments under the Asset Management Agreement, that results in the termination by the REIT of such agreement; or
  - vii. a default by Melcor under the Restrictive Covenant Agreement;
- b. a change of control of Melcor Developments, subject to reimbursement of certain severance costs;
- c. at the end of a term or renewal term if a majority of the independent Trustees determine that Melcor Development has not been meeting its obligations under the Property Management Agreement, provided that the REIT provides Melcor Developments with at least 90 days' prior written notice of such termination, or payment in lieu thereof; or
- d. upon the REIT achieving a Gross Book Value (defined as the REIT's assets plus accumulated amortization on property, plant and equipment) of \$1.15 billion, if a majority of the Independent Trustees determine that it is in the best interest of the REIT to internalize the property management services, provided that the REIT

provides Melcor Development with at least 90 days' prior written notice of such termination, or payment in lieu thereof.

#### Lease Fees Payable Pursuant to the Property Management Agreement

In consideration of providing the property management services, pursuant to the Property Management Agreement, Melcor Development is entitled to certain fees including the following upfront lease fees:

- a. 5.0% of aggregate base rent for leases entered into after the REIT's IPO for the first five years of the initial term and 2.5% of aggregate base rent for the lease for the second five years of the initial term, provided that in the event that Melcor Developments lists a property with a third party leasing agent and that leasing agent cooperates with an outside agent, then the fee payable to Melcor Developments shall, if the listing agreement with the leasing agent provides for an additional fee payable to the outside agent, be 1.5 times the lease base fee so as to compensate Melcor Developments for having to pay the additional fee; and
- b. 2.5% of aggregate base rent for lease renewals and expansions for the first five years of the initial term for leases entered into prior to the REIT's IPO.

#### Proposed Amended and Restated Property Management Agreement

As a result of its deliberations and having regard to the REIT's current Gross Book Value of approximately \$766,457,000, the Independent Committee concluded that it would be desirable and appropriate for the REIT to have greater flexibility with respect to internalization of property management services. With such conclusion in mind, the Independent Committee proposed to Melcor Developments that the Property Management Agreement be amended to give to the REIT the right to terminate the Property Management Agreement, on three hundred sixty five (365) days' prior written notice (or payment in lieu thereof) if a majority of the independent Trustees (i) determine that it is in the best interest of the REIT to internalize property management services; or (ii) are not satisfied with the performance by Melcor Developments of its duties under the Property Management Agreement.

The REIT also proposed to Melcor Developments that the lease fee structure in the Property Management Agreement be amended to provide that effective January 1, 2022: (i) lease fees would only be paid to Melcor for transactions in respect of which a third party leasing agent was not engaged; and (ii) lease fees payable to Melcor would represent current market terms in each particular market within which leasing services are provided to the REIT by Melcor, with the objective being to set each leasing fee at no more, and no less, than an industry-standard rate in each particular market within which leasing services are provided.

Such proposed amendments are reflected in the amended and restated property management agreement (the "Amended and Restated Property Management Agreement") attached hereto as Schedule "B" the form of which has been settled with Melcor Developments but has not been executed.

The summary of the proposed amendments to the Property Management Agreement does not purport to be complete and is subject to, and qualified in its entirety by, reference to the terms of the Amended and Restated Property Management Agreement.

#### Unitholder Approval

Although unitholder approval of amendments to the Asset Management Agreement is not required by its terms, the Trustee were of the view that given (a) the importance of the Asset Management Agreement and the relationship with Melcor Developments to the REIT and its unitholders, and (b) the Non-Gross Book Value Termination Right requires unitholder ratification, it was appropriate in circumstances for the Board of Trustees to approve the REIT entering into the Amended and Restated Asset Management Agreement with Melcor Developments subject to unitholder ratification.

Unitholder approval of amendments to the Property Management Agreement is not required by its terms and, therefore, is not being sought.

Consequently, at the meeting, unitholders will be asked to consider and, if deemed advisable, to pass, by majority vote, the following resolution, subject to such amendments, variations or additions as may be approved at the meeting:

"NOW THEREFORE BE IT RESOLVED THAT:

1. The execution and delivery by Melcor Real Estate Investment Trust (the "REIT") of the amended and restated asset management agreement (the "Amended and Restated Asset Management Agreement") with Melcor Developments Ltd. (in the form attached as Schedule "A" to the Management Information Circular of the REIT dated March 30, 2022), and the performance thereof by the REIT, is hereby authorized and approved;
2. The Trustees of the REIT are hereby authorized and empowered, without further notice to, or approval of, the unitholders of the REIT, not to proceed with the execution and delivery of the Amended and Restated Asset Management Agreement; and
3. Any Trustee or Executive Officer of the REIT is hereby authorized and directed 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 in such person's opinion 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, agreement or instrument or the doing of any such act or thing."

*The Board recommends that you vote **For** the REIT entering into the Amended and Restatement Asset Management Agreement with Melcor Developments.*

Melcor Developments has advised the REIT of its intention to: (i) vote its special voting units in favor of the above resolution; and (ii) enter into the Amended and Restated Property Management Agreement concurrent with the Amended and Restated Asset Management Agreement should the Amended and Restated Asset Management Agreement be approved by unitholders.

Should the above resolution be approved, the REIT expects that it will enter into the Amended and Restated Asset Management Agreement and the Amended and Restated Property Management Agreement, in each case with Melcor Developments, immediately following the meeting.

Neither the entering into of the Amended and Restated Asset Management Agreement nor the entering into of the Amended and Restated Property Management Agreement is a "related party transaction" as defined by Multilateral Instrument 61-101 - Protection of Minority Security Holders in Special Transactions ("MI 61-101"). Consequently, the entering into of the Amended and Restated Asset Management Agreement and the Amended and Restated Property Management Agreement will not be subject to the valuation and minority approval requirements of MI 61-101.

## **6. OTHER BUSINESS**

Management does not intend to present any other business at the meeting and we are not aware of amendments to proposed matters or any other matters calling for your action.





### **Interest of Certain Persons in Matters To Be Acted Upon**

Other than as set forth in this circular, none of the REIT's Trustees or senior officers, nor any person who has held such a position since the beginning of the REIT's most recently completed financial year, nor any proposed nominee for election as a Trustee, has any material interest, direct or indirect by way of beneficial ownership of securities or otherwise, in any matter to be acted upon at the Meeting other than the election of Trustees.



## VOTING INSTRUCTIONS

How you vote depends on whether you are a non-registered (beneficial) or registered unitholder. You are a beneficial unitholder if the units you own are registered in the name of an intermediary (a bank, trust company, securities broker, Trustee or other institution). This applies to the majority of unitholders. You are registered unitholder if your units are held in your name. Your name appears on your certificate or statement from a direct registration system confirming your unitholdings.

| Voting Options   | Non-registered (beneficial) unitholders   | Registered unitholders  |
|--|---|---|
| <b>BY MAIL, FAX OR INTERNET</b><br><br><br> | <p>Your intermediary sent you a voting instruction form. We do not have records of your unitholdings, so you must follow the instructions from your intermediary.</p> <p>Complete the voting instruction form and return it as per the instructions on the form.</p> <p>Your voting instruction form tells you how to return the form and provides options for mailing and online voting.</p> <p>Your intermediary must receive your voting instructions with sufficient time to act on them, generally 1 business day before the proxy deadline.</p>   | <p>We sent you a proxy form with your Notice package. You may vote your proxy by any of the means outlined on the proxy form.</p> <p>Complete the proxy form and return it to Odyssey Trust Company by mail or complete the form online.</p> <p>Mark your votes on the form. You will not be able to appoint a proxyholder other than as noted below due to COVID-19.</p> <p>Odyssey Trust Company must receive your completed proxy no later than 9:30 AM MT on May 17, 2022 (the proxy deadline).</p> <p>You may return your completed proxy:</p> <ul style="list-style-type: none"> <li>• By mail (in the envelope provided)</li> <li>• Online at <a href="https://login.odysseytrust.com/pxlogin">https://login.odysseytrust.com/pxlogin</a></li> </ul> |
| <b>Participating in the Live Virtual Meeting</b>   | <p>To participate in the live meeting, please join via this link: <a href="https://www.gowebcasting.com/11744">https://www.gowebcasting.com/11744</a></p> <p>Participants will be able to hear presenters, view the presentation deck and ask questions at the appropriate time..</p>   |   |
| <b>Appointing a Proxyholder</b><br>   | <p>Your voting instruction or proxy form names Naomi Stefura or Andrew Melton, officers of the REIT, as your proxyholder.</p> <p>Your proxyholder must vote according to the instructions you provided. If you did not specify how you want to vote, your proxyholder can vote your units as he or she wishes. Your proxyholder will also decide how to vote on amendments or variations to any item of business or new matters that are properly brought before the meeting (although none are anticipated).</p> <p>If you complete and return the form without naming a proxyholder or specifying how you want to vote, Naomi Stefura or Andrew Melton will vote as follows for you:</p> <ul style="list-style-type: none"> <li>• For fixing the number of trustees at six</li> <li>• For the election of trustee nominees</li> <li>• For the appointment of the unitholders' auditors</li> <li>• For the amended and restated asset management agreement with Melcor Developments Ltd</li> </ul> |   |
| <b>Changing Your Mind</b>  | <p>If you have provided voting instructions to your intermediary and you change your mind about how you want to vote, contact your intermediary to find out what to do. If you voted online, you can also change your instructions online.</p> <p>Note that your intermediary must receive your revised instructions with enough time to act on them prior to the proxy deadline.</p>   | <p>If you want to revoke your proxy, you must deliver a signed written notice specifying your instructions to one of the following by 9:30 AM MT on May 17, 2022:</p> <ul style="list-style-type: none"> <li>• Our registered office: 900, 10310 Jasper Avenue, Edmonton, Alberta T5J 1Y8</li> <li>• Odyssey Trust Company by mail or internet as described in the proxy form</li> </ul> <p>You may also revoke your proxy in any other manner permitted by law.</p>  |
| <b>Confidentiality</b>   | <p>The REIT's transfer agent counts all proxies to ensure confidentiality and only shares proxies with management where they contain comments clearly intended for management, in the event of a proxy contest or to meet legal requirements.</p>   |   |
| <b>Voting Results</b>  | <p>We will file the voting results, including details about the percentage of support received for each item of business, promptly following the meeting.</p>   |   |

## NOMINEES FOR ELECTION TO THE BOARD OF TRUSTEES



**Carolyn Graham FCPA, FCA, ICD.D**

Edmonton, Alberta, Canada

**Independent**

**Principal Occupation:**

Senior EVP, Canadian Western Bank

|                                  |                           |
|----------------------------------|---------------------------|
| <b>Trustee Since</b>             | 2019                      |
| <b>2021 Attendance</b>           | 100 %                     |
| <b>2021 Trustee Compensation</b> | \$46,000                  |
| <b>REIT Unitholdings</b>         | 10,000                    |
| <b>Committees</b>                | Audit (Chair), Governance |



**Andrew Melton**

Calgary, Alberta, Canada

**Related**

**Principal Occupation:**

CEO, Melcor REIT, Corporate Director

|                                  |          |
|----------------------------------|----------|
| <b>Trustee Since</b>             | 2013     |
| <b>2021 Attendance</b>           | 100 %    |
| <b>2021 Trustee Compensation</b> | \$18,375 |
| <b>REIT Unitholdings</b>         | 144,025  |
| <b>Committees</b>                | none     |



**Richard Kirby MBA, LLB, ICD.D**

Edmonton, Alberta, Canada

**Independent**

**Principal Occupation:**

President, Midnight Sun Integrated Financial

|                                  |                   |
|----------------------------------|-------------------|
| <b>Trustee Since</b>             | 2019              |
| <b>2021 Attendance</b>           | 100 %             |
| <b>2021 Trustee Compensation</b> | \$36,000          |
| <b>REIT Unitholdings</b>         | —                 |
| <b>Committees</b>                | Audit, Governance |



**Larry Pollock**

Edmonton, Alberta, Canada

**Independent (Lead Director)**

**Principal Occupation:**

Corporate Director

|                                  |                           |
|----------------------------------|---------------------------|
| <b>Trustee Since</b>             | 2013                      |
| <b>2021 Attendance</b>           | 100 %                     |
| <b>2021 Trustee Compensation</b> | \$48,000                  |
| <b>REIT Unitholdings</b>         | 85,000                    |
| <b>Committees</b>                | Audit, Governance (Chair) |



**Bernie Kollman, ICD.D**

Edmonton, Alberta, Canada

**Independent**

**Principal Occupation:**

Corporate Director

|                                  |                   |
|----------------------------------|-------------------|
| <b>Trustee Since</b>             | 2021              |
| <b>2021 Attendance</b>           | 100%              |
| <b>2021 Trustee Compensation</b> | \$3,250           |
| <b>REIT Unitholdings</b>         | 10,000            |
| <b>Committees</b>                | Audit, Governance |



**Ralph Young**

Edmonton, Alberta, Canada

**Related (Chair)**

**Principal Occupation:**

Corporate Director

|                                  |          |
|----------------------------------|----------|
| <b>Trustee Since</b>             | 2013     |
| <b>2021 Attendance</b>           | 100 %    |
| <b>2021 Trustee Compensation</b> | \$24,625 |
| <b>REIT Unitholdings</b>         | 26,800   |
| <b>Committees</b>                | none     |

1. Ms. Kollman was appointed a Trustee on December 9, 2021.

1. Mr. Melton and Mr. Young are the Melcor Developments nominees to the REIT Board of Trustees, and are directors of Melcor Developments, which owns 55.4% of the voting units of the REIT.



The term of office for each proposed Trustee expires on the date of the next AGM. No Trustee or proposed Trustee has been a director or executive officer of a company that was subject to an order, became bankrupt or was subject to penalties or sanctions.

The following nominees are also Trustees or directors of other reporting issuers:

| Trustee       | Reporting Issuer         | Exchanges |
|---------------|--------------------------|-----------|
| Andrew Melton | Melcor Developments Ltd. | TSX       |
| Ralph Young   | Melcor Developments Ltd. | TSX       |

## EXECUTIVE COMPENSATION

The executive officers of the REIT are employed by Melcor Developments and the REIT does not directly or indirectly pay any compensation to them. Any variability in compensation paid by Melcor Developments to the executive officers of the REIT has no impact on the REIT's financial obligations, including its obligations under the Asset Management Agreement entered into with Melcor Developments. See "Arrangements with Melcor" in the REIT's Annual Information Form dated March 3, 2022 which may be accessed on SEDAR at [www.sedar.com](http://www.sedar.com). The total compensation received by the executive officers of the REIT is determined by Melcor Developments in accordance with its executive compensation philosophy. For a detailed discussion of the objectives and elements of Melcor Developments' compensation program, see the most recent management information circular of Melcor Developments (the Melcor circular), which may be accessed on SEDAR at [www.sedar.com](http://www.sedar.com). Note that the information contained on Melcor Developments' profile on SEDAR, including the Melcor circular, is not incorporated by reference into this circular.

### Summary Compensation Table

The REIT's Named Executive Officers (NEOs) are Darin Rayburn (President & Chief Executive Officer from October 1, 2019 until December 31, 2021), Andrew Melton (President & Chief Executive Officer until October 1, 2019) and Naomi Stefura (Chief Financial Officer). The following table sets out information concerning the compensation that was earned by, paid to, or awarded to these NEOs by Melcor Developments, based on the portion of time attributable to services provided to the REIT.

| Name & Principal Position                              | Year | Base salary <sup>1</sup> | Annual cash incentive <sup>1</sup> | Unit-based awards | All other compensation <sup>1</sup> | Total compensation <sup>1</sup> |
|--|------|--------------------------|------------------------------------|-------------------|-------------------------------------|---------------------------------|
| <b>Darin A. Rayburn<sup>2</sup></b><br>President & CEO | 2021 | 170,400                  | 116,400                            | nil               | 3,487                               | 290,287                         |
|  | 2020 | 170,400                  | 172,019                            | nil               | 3,446                               | 345,865                         |
|  | 2019 | 39,890                   | 33,872                             | nil               | 972                                 | 74,734                          |
| <b>Naomi M. Stefura</b><br>Chief Financial Officer     | 2021 | 120,000                  | 256,000                            | nil               | 3,487                               | 494,287                         |
|  | 2020 | 100,000                  | 86,010                             | nil               | 3,204                               | 189,214                         |
|  | 2019 | 100,000                  | 54,308                             | nil               | 3,487                               | 157,795                         |
| <b>Andrew J. Melton<sup>2</sup></b><br>President & CEO | 2021 | —                        | —                                  | nil               | —                                   | —                               |
|  | 2020 | —                        | —                                  | nil               | —                                   | —                               |
|  | 2019 | 206,438                  | 110,194                            | nil               | 7,319                               | 323,951                         |

1. Represents the portion of salary and bonus (paid by Melcor Developments) attributable to the estimated time spent on REIT activities. All compensation for Mr. Melton, Mr. Rayburn and Ms. Stefura was paid by Melcor, and there was no reimbursement by the REIT. These individuals act in a variety of capacities for Melcor, the REIT and their respective affiliates, and accordingly, the total compensation received from Melcor is not disclosed in this table. The allocation of the total compensation disclosed in this table was determined by Melcor solely for the purposes of this table, based on the time estimated to have been spent by Mr. Melton (100%) and Ms. Stefura and Mr. Rayburn (40%) in connection with REIT-related services. The 2021 bonus is an estimate and will be updated in next year's MIC to reflect actual amounts paid.
2. Mr. Rayburn was CEO of the REIT from IPO to April 17, 2017 and from October 1, 2019 to December 31, 2021. Mr. Melton was President & CEO from April 17, 2017 to October 1, 2019. Compensation amounts include only the periods that Mr. Rayburn and Mr. Melton were active in the role of CEO.

## Compensation Discussion and Analysis

The compensation of Melcor Developments is calculated in accordance with the Asset Management Agreement and the Property Management Agreement and is not subject to the general discretion of the Board. Accordingly, compensation received from Melcor Developments by persons provided by Melcor Developments, as officers of the REIT, is not within the discretion of the Board.

## Compensation & Governance

The Corporate Governance & Compensation Committee (CGCC) consisted of three Trustees. Larry Pollock became Chair of the committee following Donald Lowry's retirement from the REIT board in June of 2020. Richard Kirby and Carolyn Graham are also members of the committee.

All members of the CGCC committee are independent Trustees of the REIT. As noted above, because the Named Executive Officers are employed by Melcor Developments, rather than the REIT, the CGCC does not make recommendations for or participate in decisions regarding the compensation of the Named Executive Officers.

The REIT believes each member of the CGCC has direct experience relevant to committee responsibilities.

| Committee Member                                  | Relevant Education & Experience  |
|---|--|
| Larry Pollock<br>Chair<br><br><i>Independent</i>  | Mr. Pollock retired in March 2013 from the position of President, CEO and Director of Canadian Western Bank (listed on the TSX). Prior to joining Canadian Western Bank, Mr. Pollock was Regional Vice President of Lloyds Bank Canada in Toronto and Calgary from 1985 to 1990. In addition to having served on the board of Canadian Western Bank and several of its subsidiaries, Mr. Pollock has been a director of several TSX listed companies. Mr. Pollock graduated from the Saskatchewan Institute of Applied Science and Technology in Business Administration in 1968 and was awarded an Honorary Bachelor of Business Administration degree from the Northern Alberta Institute of Technology in 2009. |
| Richard Kirby<br>ICD.D<br><br><i>Independent</i>  | Mr. Kirby holds an MBA from Cornell University and a Bachelor of Laws from Dalhousie University. He co-founded and is the president of Midnight Sun Integrated Financial, a firm focused on innovative financial businesses ranging from private equity investing through to proprietary algorithmic foreign exchange and derivatives trading. Prior to that, Mr. Kirby was partner and counsel with the law firm Felesky Flynn LLP from 2002 until 2017. He is a board member for a variety of corporations and not-for-profit organizations.   |
| Carolyn Graham<br>ICD.D<br><br><i>Independent</i> | Ms. Graham holds a Bachelor of Commerce (Distinction) from the University of Alberta and was named a Fellow of the Chartered Professional Accountants of Alberta in 2011. Ms. Graham is currently Senior EVP of Canadian Western Bank. She was Chief Risk Officer from December 2020 to November 2021 and Chief Financial Officer prior to December 2020. As an executive leader in the highly regulated banking and financial services industry, she has extensive board experience with public company subsidiaries and not-for-profit organizations, where she is focused on governance and oversight of strategic issues.  |

## TRUSTEE COMPENSATION

As at March 30, 2022 the REIT has six (6) Trustees, four (4) of whom are independent Trustees (as determined in accordance with applicable securities laws).

The CGCC is responsible for reviewing the adequacy and form of compensation of the Trustees, the Chair and the Lead Trustee to ensure compensation realistically reflects the responsibilities and risks involved with being an effective Trustee.

Trustee compensation is made up of an annual Trustee retainer, additional retainers for committee Chairs, and meeting fees for each meeting attended.

Trustee compensation is not paid to Trustees who are also executive officers of Melcor Developments.

Trustee compensation was evaluated and adjusted effective January 1, 2021 as per the table below. Compensation was further adjusted effective September 1, 2021 to restore compensation to pre-COVID rates.

### Retainers and Fees

Trustee compensation was set as follows:

| Component  | EFFECTIVE       |                   |
|--|-----------------|-------------------|
|  | January 1, 2021 | September 1, 2021 |
| Trustee Retainer (independent)                       | \$21,000        | \$21,000          |
| Trustee Retainer (related)                           | \$10,500        | \$21,000          |
| Chair Retainer <sup>1</sup>                          | \$5,000         | \$10,000          |
| Lead Trustee Retainer <sup>1</sup>                   | \$7,000         | \$7,000           |
| Board & Committee Meeting (independent, per meeting) | \$1,500         | \$1,500           |
| Board & Committee Meetings (related, per meeting)    | \$750           | \$1,500           |
| Conference Call Meeting                              | \$750           | \$750             |
| Audit Chair Retainer <sup>1</sup>                    | \$10,000        | \$10,000          |
| Governance Chair Retainer <sup>1</sup>               | \$5,000         | \$5,000           |

1. Paid in addition to annual Trustee retainer and meeting fees.

Trustees do not receive option-based awards, unit-based awards, non-equity incentive plan compensation or pension income.

### Trustee Compensation Summary

The following table provides a summary of the fees earned by Trustees for the financial year ended December 31, 2021:

| Trustee                     | Annual retainer <sup>1</sup> | Meeting fees | All other compensation | Total  |
|-----------------------------|------------------------------|--------------|------------------------|--------|
| Carolyn Graham              | 31,000                       | 15,000       | –                      | 46,000 |
| Richard Kirby               | 21,000                       | 15,000       | –                      | 36,000 |
| Bernie Kollman <sup>2</sup> | 1,750                        | 1,500        | –                      | 3,250  |
| Andrew Melton               | 13,125                       | 5,250        | –                      | 18,375 |
| Larry Pollock               | 33,000                       | 15,000       | –                      | 48,000 |
| Ralph Young                 | 19,375                       | 5,250        | –                      | 24,625 |

1. Includes committee Chair retainers.

2. Ms. Kollman was appointed to the Board December 9, 2021.

### Unitholdings of Independent Trustees

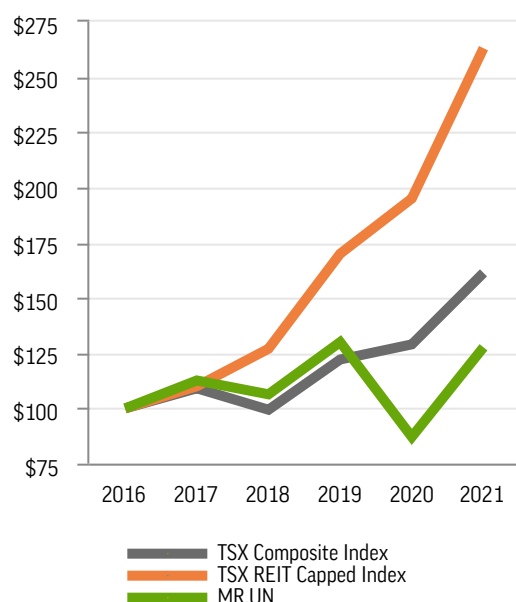
| Trustee        | Number | Value <sup>1</sup> |
|----------------|--------|--------------------|
| Carolyn Graham | 10,000 | 67,900             |
| Richard Kirby  | –      | –                  |
| Bernie Kollman | 10,000 | 67,900             |
| Larry Pollock  | 85,000 | 577,150            |

1. Based on closing price of REIT units on December 31, 2021 (\$6.79).

## PERFORMANCE GRAPH

The following graph shows a comparison of the value of \$100 invested in the REIT units since IPO with the cumulative returns of the TSX/S&P Composite Index and the TSX Real Estate Investment Trusts Index:

| Year Ended | TSX Composite Index | TSX REIT Capped Index | MR.UN |
|------------|---------------------|-----------------------|-------|
| 2016       | \$100               | \$100                 | \$100 |
| 2017       | \$109               | \$110                 | \$113 |
| 2018       | \$99                | \$127                 | \$106 |
| 2019       | \$122               | \$170                 | \$130 |
| 2020       | \$129               | \$195                 | \$87  |
| 2021       | \$161               | \$263                 | \$128 |



### Interest of Informed Persons In Material Transactions

Other than as disclosed in this circular, there are no material interests, direct or indirect, of any Trustee or executive officer of the REIT, any unitholder that beneficially owns, or controls or directs, (directly or indirectly) more than 10% of the units or special voting units of the REIT, or any associate or affiliate of any of the foregoing persons, in any transaction since the establishment of the trust (up to the date hereof) that has materially affected or is reasonably expected to materially affect the trust or any of its subsidiaries.

Mr. Andrew Melton (CEO effective January 1, 2022) and Ms. Naomi Stefura (Chief Financial Officer), are employees of Melcor Developments. In addition, Mr. Ralph Young (Chair) and Mr. Andrew Melton are directors of Melcor Developments and are Melcor's nominees to the REIT board.

The REIT indirectly acquired certain properties from Melcor Developments and entered into certain agreements with Melcor Developments in connection with the REIT's initial public offering. Subsequent to the initial public offering, the REIT has acquired additional properties from Melcor Developments. In addition, Melcor Developments holds a significant effective interest in the REIT.

For a discussion of the arrangements with Melcor Developments, please see the REIT's Annual Information Form dated March 3, 2022 which may be accessed on SEDAR at [www.sedar.com](http://www.sedar.com) or at [www.MelcorREIT.ca](http://www.MelcorREIT.ca).

### External Management

The REIT is externally managed, administered and operated by Melcor Developments pursuant to the terms of the Asset Management Agreement and the Property Management Agreement. See "Arrangements with Melcor" in the REIT's Annual Information Form dated March 3, 2022 which may be accessed on SEDAR at [www.sedar.com](http://www.sedar.com). For the financial year ended December 31, 2021, the REIT paid Melcor asset management fees totaling \$1.92 million and property management fees totaling \$3.10 million.

## CORPORATE GOVERNANCE & COMPENSATION COMMITTEE REPORT



LARRY POLLOCK



CAROLYN GRAHAM



RICHARD KIRBY

The Corporate Governance & Compensation Committee (CGCC) is responsible for assisting the Board in ensuring that the REIT's process and structure support the REIT's objectives and create unitholder value, and in measuring Board performance with respect to governance standards.

The primary mandate of the CGCC is to:

- Provide a focus on governance that will enhance the REIT's performance. The committee assesses and makes recommendations regarding Board effectiveness, establishes and leads the process for identifying, recruiting, appointing, re-appointing and providing ongoing development for Trustees and monitors their work performance,
- Assist the Board in fulfilling its obligations relating to compensation and establishing a plan of continuity and development of senior management; and
- Establish policies and procedures designed to identify and mitigate risks associated with the REIT's compensation policies and practices.

The members of the CGCC throughout 2021 were Mr. Pollock (Chair), Mr. Kirby and Ms. Graham, all of who are independent Trustees.

The CGCC held one meeting in 2021 which included an in camera session without the presence of REIT management.

In January 2021, The Board formally established an Independent Committee to examine agreements between Melcor Developments Ltd. and the REIT and other matters as directed by the Board. The Independent Committee was chaired by independent and Lead Trustee Larry Pollock and is comprised of the same members as the CGCC. Following review of the agreements, the Independent Committee has recommended revisions to the agreements as follows:

- Asset Management Agreement amended to provide greater flexibility with respect to the timing of a potential internalization by allowing termination on 1 years notice.
- Property Management Agreement amended to provide greater flexibility with respect to the timing of a potential internalization by allowing termination on 1 years notice and lease fees amended to align with market rates.

Unitholders will be asked to approve the amended Asset Management agreement and the work of the Independent Committee is now complete.

In 2021, the Board added environmental, social and governance (ESG) oversight to its mandate.

### CGCC Approval

The CGCC has reviewed and discussed the compensation disclosure in this document, including information in the Board of Trustees section, the Executive Compensation section and the Trustee's Compensation section with the REIT's management. It has recommended that the disclosure be included in the circular.

On behalf of the Corporate Governance and Compensation Committee,

Larry Pollock (Chair)

Carolyn Graham

Richard Kirby

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## STATEMENT OF GOVERNANCE PRACTICES

The REIT's Amended and Restated Declaration of Trust provides that, subject to certain conditions, the Trustees have full, absolute and exclusive power, control and authority over the REIT's assets, affairs and operations, to the same extent as if the Trustees were the sole and absolute legal and beneficial owners of the trust's assets. The governance practices, investment guidelines and operating policies of the REIT are overseen by a Board consisting of a minimum of three (3) and a maximum of twelve (12) Trustees, a majority of whom are (and must be) independent Trustees and a majority of whom (and a majority of independent Trustees) are (and must be) Canadian residents.

The mandate of the Board, which is discharged directly or through one of the two standing committees of the Board, is one of stewardship and oversight of the REIT and its business, and includes responsibility for strategic planning, review of operations, disclosure and communication policies, oversight of financial and other internal controls, corporate governance, Trustee orientation and education, senior management compensation and oversight, and Trustee compensation and assessment.

The standard of care and duties of the Trustees provided in the Amended and Restated Declaration of Trust is similar to those imposed on directors of a corporation governed by the Business Corporations Act (Alberta). Accordingly, each Trustee is required to exercise the powers and discharge the duties of his or her office honestly, in good faith and in the best interests of the REIT and the unitholders and, in connection therewith, to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

The Amended and Restated Declaration of Trust grants Melcor Developments the exclusive right to nominate a number of Trustees proportionate to Melcor Developments ownership interest in the REIT (on a fully diluted basis) provided that, so long as Melcor Developments owns at least a 10% ownership interest in the REIT (on a fully diluted basis), it shall have the right to nominate not less than one Trustee.

The REIT's Board of Trustees and management team recognize that effective corporate governance practices are fundamental to the long-term success of the REIT. As such, the Board of Trustees and management have implemented a series of governance policies and procedures to meet or exceed applicable Canadian stock exchange and regulatory rules. The Corporate Governance & Compensation Committee monitors regulatory changes and best practices and periodically reviews, evaluates and modifies corporate governance processes as necessary. The Board of Trustees and management are committed to maintaining a high level of corporate governance.

A description of the REIT's corporate governance practices under National Instrument 58-101, "Disclosure of Corporate Governance Practices", is provided in Schedule A. Further Appendix A, B and C contain: (i) the Mandate of the Board of Trustees; (ii) the Mandate of the Corporate Governance & Compensation Committee; and (iii) the Mandate of the Investment Committee. Further, the Mandate of the Audit Committee is contained in Exhibit A to the REIT's Annual Information Form dated March 3, 2022.

## ADDITIONAL INFORMATION

Additional information relating to the REIT's business is available on SEDAR at [www.sedar.com](http://www.sedar.com) or under 'Investor Relations' on the REIT's website at [www.melcorreit.ca](http://www.melcorreit.ca). Additional financial information about the REIT is provided in the consolidated financial statements and management's discussion and analysis in the annual report for the year ended December 31, 2021.

Copies of these documents and any other documents incorporated by reference, additional interim financial statements for periods subsequent to December 31, 2021 and additional copies of this circular are available on request.

Unitholders who wish to receive paper copies of the REIT's interim and annual reports may fill out and return the Supplemental Mailings form enclosed with the notice package. You may also complete this form to receive email notice of the availability of electronic files.

If you are a beneficial unitholder, you made an election to receive or not receive company information through your intermediary. If you wish to change your election, you will need to do so through your intermediary.

**We maintain perpetual unitholder mailing lists for both electronic notices and quarterly and annual hard copy mailings. All unitholders and interested parties can be added to the perpetual list by request to Melcor REIT Investor Relations. Please specify whether you wish to be added to the electronic list, the paper list or both lists.**

**If you already receive the desired materials, you do NOT need to complete the supplemental mailing list again.**

**By Mail:** Investor Relations  
900, 10310 Jasper Avenue  
Edmonton, Alberta T5J 1Y8

**By Phone:** 1-855-673-6931 x 4707

**By Fax:** 780-426-1796

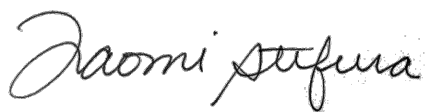
**By Email:** [ir@melcorREIT.ca](mailto:ir@melcorREIT.ca)

**NOTE: You will remain on this list until you request removal.**

The REIT's annual report can be accessed at [www.MelcorREIT.ca/2022AGM](http://www.MelcorREIT.ca/2022AGM) or you can request a copy by contacting us via the methods described above.

### Board of Trustee Approval

The REIT's Board of Trustees has approved the content and the sending of this information circular to the unitholders.



**Naomi Stefura**

Chief Financial Officer  
Melcor REIT



**MELCOR DEVELOPMENTS LTD.**

**and**

**MELCOR REAL ESTATE INVESTMENT TRUST**

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**AMENDED AND RESTATED ASSET MANAGEMENT AGREEMENT**

**MAY 1<sup>▲</sup>, ~~2013~~2022**

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## AMENDED AND RESTATED ASSET MANAGEMENT AGREEMENT

THIS AGREEMENT is made as of May ~~4~~<sup>1</sup>, ~~2013~~<sup>2022</sup>.

BETWEEN:

**MELCOR DEVELOPMENTS LTD.,**

a body corporate duly incorporated pursuant to the laws of the Province of Alberta  
(**"Melcor"**)

-and-

**MELCOR REAL ESTATE INVESTMENT TRUST,**

an unincorporated, open-ended real estate investment trust established  
under the laws of the Province of Alberta  
(the **"REIT"**)

WHEREAS:

- A. The REIT has been formed to own a portfolio of income producing real properties;
- B. Melcor and its Affiliates are engaged in, among other things, the business of acquiring, owning, developing, investing in, managing and operating commercial and residential income producing real properties in Canada and the United States;
- C. ~~The~~ Pursuant to an asset management agreement dated May 1, 2013 (the **"Original Asset Management Agreement"**), the REIT ~~wishes to retain~~<sup>retained</sup> Melcor to provide the Asset Management Services and any Additional Services in respect of the Investment Properties ~~and Melcor wishes to provide such Asset Management Services and any Additional Services;~~
- D. The REIT and Melcor wish to amend and restate the Original Asset Management Agreement pursuant to the terms and conditions herein contained;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

Where used in this Agreement, unless the context expressly or by necessary implication otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

- (a) **"Acquisition Fee"** has the meaning set out in Section 4.1(b)(iii);
- (b) **"Affiliate"** of a Person means any Person that would be deemed to be an affiliated entity of such Person within the meaning of National Instrument 45-106-*Prospectus and Registration Exemptions*, as replaced or amended from

time to time (including any successor rule or policy thereto), if the term “person” therein was as defined in this Agreement. For greater certainty, Melcor shall not be considered an Affiliate of the REIT or Melcor REIT GP and neither the REIT nor Melcor REIT GP shall be considered an Affiliate of Melcor;

- (c) **“Applicable Law”** means, with respect to any Person, property, transaction, event or other matter, any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, order or other requirement having the force of law (collectively, the **“Law”**) relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of the Law (or any part thereof) by any Person having jurisdiction over it;
- (d) **“Approval”** has the meaning set out in Section 11.2;
- (e) **“Approved”** has the meaning set out in Section 11.2;
- (f) **“Asset Management Services”** has the meaning set out in Section 3.2;
- (g) **“Associate”** when used to indicate a relationship with a Person has the meaning ascribed thereto in the Securities Act (Alberta);
- (h) **“Business Day”** means any day other than a Saturday, Sunday or statutory holiday in the Province of Alberta;
- (i) **“Capital Expenditures Fee”** has the meaning set out in Section 4.1(b)(ii);
- (j) **“Capital Projects”** are projects where the associated costs are capitalized to the Investment Property’s carrying amount only, and are not expenses in accordance with GAAP;
- (k) **“Change of Control of Melcor”** means the occurrence of any transaction or event as a result of which, at any time in respect of Melcor, any Person or Persons, other than Melton Holdings Ltd. or one or more of its Affiliates, shall own, acquire or possess Control of Melcor;
- (l) **“Change of Control of the REIT”** means the occurrence of any transaction or event as a result of which, at any time in respect of the REIT, any Person or Persons, other than Melcor or one or more Affiliates of Melcor shall own, acquire or possess Control of the REIT, other than a change of Control caused by Melcor or an Affiliate thereof;
- (m) **“Class B LP Units”** means the Class B, exchangeable, non-voting limited partnership units of the Limited Partnership;
- (n) **“Closing”** means the closing of the IPO and the acquisition, directly or indirectly, by the REIT or its Affiliates of the Initial Properties and other related transactions, all of which are described in the Prospectus;
- (o) **“Commencement Date”** means the date of this Agreement as first set out above;

- (p) **“Control”** means as follows: a Person (first person) is considered to Control another Person (second person) if: (i) the first person beneficially owns, or controls or directs, directly or indirectly, securities of the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors (or trustees) of the second person, unless that first person holds the voting securities only to secure an obligation; (ii) the second person is a partnership, other than a limited partnership, and the first person holds more than 50% of the interests of the partnership; or (iii) the second person is a limited partnership and the general partner (or if there is more than one general partner, the managing general partner) of the limited partnership is the first person (or the person who Controls such general partner pursuant to clause (i) of this definition is the first person);
- (q) **“Damages”** means any loss, cost, liability, claim, interest, fine, penalty, assessment, damages available at law or in equity, expense (including actual, reasonable costs, fees and expenses of legal counsel on a full indemnity basis, without reduction for tariff rates or similar reductions and reasonable costs, fees and expenses of investigation) or diminution in value;
- (r) **“Declaration of Trust”** means the declaration of trust of the REIT made as of January 25, 2013 and amended and restated as of Closing, as it may be further amended, supplemented or amended and restated from time to time;
- (s) **“Development and Opportunities Agreement”** means the development and opportunities agreement ~~to be~~ entered into at Closing among the REIT and Melcor, as such agreement may be amended, supplemented or amended and restated from time to time;
- (t) **“Dispute”** has the meaning set out in Section 4.1(d)
- (u) **“ETA”** means the *Excise Tax Act* (Canada);
- (v) **“Event of Default by Melcor”** means:
- (i) the occurrence of an Event of Insolvency in respect of Melcor;
  - (ii) a material breach by Melcor of the terms of this Agreement if such material breach is not cured within thirty (30) days of receipt by Melcor of written notice of such material breach from the REIT unless Melcor has commenced rectification of such material breach within such thirty (30) day period and thereafter promptly, diligently and continuously proceeds with the rectification of such breach;
  - (iii) fraudulent misconduct of, or the misappropriation of funds by, Melcor;
  - (iv) an act of gross negligence by Melcor;
  - (v) a default by Melcor under the Development and Opportunities Agreement, that results in the termination by the REIT of such applicable agreement;

- (vi) a default by Melcor under the Property Management Agreement, that results in the termination by the REIT of such applicable agreement; or
- (vii) a default by Melcor under the Restrictive Covenant Agreement;
- (w) **“Event of Default by the REIT”** means:
  - (i) the occurrence of an Event of Insolvency in respect of the REIT; or
  - (ii) a material breach by the REIT of the terms of this Agreement if such material breach is not cured within thirty (30) days of receipt by the REIT of written notice of such material breach from Melcor unless the REIT has commenced rectification of such material breach within such thirty (30) day period and thereafter promptly, diligently and continuously proceeds with the rectification of such breach;
- (x) **“Event of Insolvency”** means any one or more of the following events in respect of Melcor or the REIT, respectively:
  - (i) if the Party is:
    - (A) wound up, dissolved or liquidated, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada) or any successor legislation thereto or has its existence terminated or has any resolution passed therefor;
    - (B) makes a general assignment for the benefit of its creditors or a proposal (including the filing of a notice of intention to make a proposal) under the *Bankruptcy and Insolvency Act* (Canada) or any successor legislation thereto; or
    - (C) proposes a compromise or arrangement under the *Companies' Creditors Arrangement Act* (Canada) or any successor legislation thereto or files any petition or answer seeking a stay of proceedings or any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for the benefit of creditors;
  - (ii) if a court of competent jurisdiction enters an order, judgment or decree approving a petition or application filed against the Party seeking a stay of proceedings or any reorganization, arrangement, composition, readjustment, liquidation, dissolution, winding up, termination of existence, declaration of bankruptcy or insolvency or similar relief under any present or future law relating to bankruptcy, insolvency or other relief for or against debtors and such Party acquiesces in the entry of such order, judgment or decree and such order, judgment or decree remains un-vacated or un-stayed for an aggregate of thirty (30) days (whether or not consecutive) from the day of entry thereof; or if any trustee in bankruptcy, receiver, receiver and manager, liquidator or any other officer with similar powers shall be appointed for such Party or of all or any



substantial part of its property with the consent or acquiescence of such Party or such appointment remains un-vacated or un-stayed for an aggregate of thirty (30) days (whether or not consecutive);

- (iii) the Party becomes insolvent or admits its inability to pay its debts generally as they become due; or
- (iv) an encumbrancer takes possession of all or substantially all of a Party's assets and such possession remains for a period of fifteen (15) days (whether or not consecutive);
- (y) **"Financing Fee"** has the meaning set out in Section 4.1(b)(iv);
- (z) **"Fiscal Year"** means the 365-day period commencing on the date hereof and ending on the 365<sup>th</sup> day thereafter and then each 365 or 366 day period thereafter;
- (aa) **"GAAP"** means Canadian generally accepted accounting principles for publicly accountable enterprises as defined by the Accounting Standards Board of The Canadian Institute of Chartered Accountants, as amended from time to time, which, for fiscal years beginning on or after January 1, 2011, is International Financial Reporting Standards.
- (bb) **"Governmental Authority"** means any national, federal, state, provincial, county, municipal, district or local government or government body, or any public, administrative or regulatory agency, political subdivision, commission, court, arbitral body, board or representative of any of the foregoing, foreign or domestic, of, or established by, any such government or government body which has authority in respect of a particular matter or any quasi-governmental body having the right to exercise any regulatory authority thereunder;
- (cc) **"Gross Book Value"** means the acquisition cost of the REIT's assets plus accumulated amortization on property, plant and equipment;
- (dd) **"GST"** means the tax imposed under subsection 165(1) of the ETA;
- (ee) **"HST"** means any harmonized sales tax which combines a province's sales tax with the tax imposed under subsections 165(1) and 165(2) of the ETA;
- (ff) **"Independent Trustee"** means a REIT Trustee who, in relation to the REIT, from and after the Closing, is "independent" within the meaning of National Instrument 58-101 - *Disclosure of Corporate Governance Practices*, as replaced or amended from time to time (including any successor rule or policy thereto);
- (gg) **"Initial Properties"** has the meaning ascribed thereto in the Prospectus;
- (hh) **"Initial Term"** has the meaning set out in Section 2.1;
- (ii) **"Investment Properties"** means all real properties, including the Initial Properties and the New Investment Properties, and any interest therein, which

the REIT directly or indirectly owns from time to time, and **"Investment Property"** means any one of them;

- (jj) **"IPO"** means the initial offering of Units to the public pursuant to the Prospectus;
- (kk) **"Limited Partnership"** means Melcor REIT Limited Partnership, a limited partnership pursuant to the laws of the Province of Alberta;
- (ll) **"Limited Partnership Agreement"** means the limited partnership agreement governing the Limited Partnership, as it may be amended, supplemented or amended and restated from time to time;
- (mm) **"Melcor Employee Severance Costs"** means any and all severance or termination payments and costs (if any) actually incurred by Melcor or its Affiliates in respect of employees of Melcor or its Affiliates arising out of or resulting from the ensuing termination of redundant or surplus employees as a consequence of the termination of this Agreement (other than pursuant to Section 9.1(a), Section 9.2(b) or Section 9.2(c)) in respect of the period after Closing that each such employee has worked on REIT matters and based on the proportion of each such employee's services attributable to REIT matters;
- (nn) **"Melcor Indemnified Parties"** has the meaning set out in Section 8.2;
- (oo) **"Melcor New Investment Property"** means any New Investment Property acquired, directly or indirectly, from a Melcor Related Party;
- (pp) **"Melcor REIT GP"** means Melcor REIT GP Inc., a company established under the laws of the Province of Alberta;
- (qq) **"Melcor Related Parties"** means Melcor and any party that is Affiliated with or related to Melcor (including any person Controlled by or Controlling Melcor or under common Control therewith), and **"Melcor Related Party"** means any one of the Melcor Related Parties;
- (rr) **"New Investment Property"** means any real property, or interest therein, other than the Initial Properties, acquired, directly or indirectly, by the REIT or any of its Affiliates during the operation of this Agreement, including any Melcor New Investment Property;
- (ss) **"Parties"** means the REIT and Melcor, and **"Party"** means any one of the Parties;
- (tt) **"Person"** means and includes any individual, general partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, joint stock company, association, trust, trust company, bank, pension fund, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or other organization or entity, whether or not a legal entity, however designated or constituted;
- (uu) **"Personnel"** has the meaning set out in Section 3.5;

- (vv) **"Property Management Agreement"** means the property management agreement ~~to be~~ entered into at Closing between the REIT and Melcor, as such agreement may be amended, supplemented or amended and restated from time to time;
- (ww) **"Prospectus"** means the final prospectus of the REIT dated April 19, 2013, as the same may be amended or amended and restated from time to time;
- (xx) **"Purchase Price"** means the purchase price paid, directly or indirectly, by the REIT or any of its Affiliates, for a New Investment Property, and shall include the value of any non-cash consideration paid for such New Investment Property, including, but not limited to, the assumption of any debt or liabilities in respect of such New Investment Property;
- (yy) **"REIT Indemnified Parties"** has the meaning set out in Section 8.1;
- (zz) **"REIT Trustees"** means the trustees holding office, from time to time, of the REIT pursuant to the Declaration of Trust;
- (aaa) **"Renewal Date"** ~~has the meaning set out in Section 4.1(d)~~ means the end of the Initial Term or the end of each subsequent Renewal Term, as applicable;
- (bbb) **"Renewal Term"** has the meaning set out in Section 2.2;
- (ccc) **"Restrictive Covenant Agreement"** means the restrictive covenant agreement ~~to be~~ entered into at Closing between the REIT and Melcor, as such agreement may be amended, supplemented or amended and restated from time to time;
- (ddd) **"Service Fees"** has the meaning set out in Section 4.1(a);
- (eee) **"Special Voting Units"** means the special voting units of the REIT that represent voting rights in the REIT that accompany the Class B LP Units;
- (fff) **"Subsidiary Entity"** means the Limited Partnership or any new limited partnership Controlled by the REIT from time to time, a trust all of the units of which or a corporation all of the shares of which are owned directly or indirectly by the REIT or another entity that would be consolidated with the REIT under GAAP;
- (ggg) **"Tax Act"** means the *Income Tax Act* (Canada);
- (hhh) **"Taxes"** means all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers' compensation premiums, together with any installments with respect thereto, and any interest, fines and penalties, in all cases imposed by any Governmental Authority in respect thereof;

- (iii) **“Unitholder”** means a Person who directly holds any Units; and
- (jjj) **“Units”** means trust units in the capital of the REIT, excluding Special Voting Units unless the context otherwise requires.

## 1.2 General Construction

Any reference to any federal, provincial, local or foreign law shall be deemed also to refer to such law as amended or replaced and all rules and regulations promulgated thereunder, unless the context requires otherwise. Any reference to any agreement (including schedules, exhibits and other attachments thereto), including this Agreement, shall be deemed also to refer to such agreement as amended, restated or otherwise modified, unless the context requires otherwise. The words “include”, “includes” and “including” shall be deemed to be followed by “without limitation.” Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context requires otherwise. The words “this Agreement”, “herein”, “hereof”, “hereby”, “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. Where this Agreement states that a Party “will” or “shall” perform in some manner or otherwise act or omit to act, it means that such Party is legally obligated to do so in accordance with this Agreement. The captions, titles and headings included in this Agreement are for convenience only and do not affect this Agreement's construction or interpretation. Any reference to an Article, Section or Schedule in this Agreement shall refer to an Article, Section or Schedule to, this Agreement, unless the context otherwise requires.

## 1.3 Currency

All references to currency in this Agreement shall be deemed to be references to Canadian dollars.

## 1.4 Schedules

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

Schedule “A” - Asset Management Services

## 1.5 Time Periods

For this Agreement, time periods within or following which an act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends if that day is a Business Day or the next Business Day if the last day of the period does not fall on a Business Day.

## 1.6 Joint Draft

The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavouring any Party because of the authorship of any provision of

this Agreement.

#### 1.7 Trustees in Representative Capacity

The REIT Trustees have entered into this Agreement in their capacity as trustees of the REIT under the Declaration of Trust and this Agreement has been executed and delivered on behalf of the REIT Trustees in such capacity, and, unless otherwise expressly provided herein, where any reference is made in this Agreement to the REIT as a Party to this Agreement or to any other agreement or to an act to be performed by or a covenant, representation or warranty given by the REIT such reference shall be construed and applied for all purposes as if it referred to the REIT Trustees in their respective capacity as trustees of the REIT under the Declaration of Trust.

### ARTICLE 2 TERM

#### 2.1 Term

This Agreement shall commence on the date hereof and, unless terminated in accordance with the provisions hereof, shall continue for an initial term of five (5) years (the “**Initial Term**”).

#### 2.2 Renewal

Upon completion of the Initial Term or any subsequent Renewal Term, this Agreement shall automatically renew for a further period of five (5) years (each a “**Renewal Term**”) until terminated in accordance with the provisions hereof.

### ARTICLE 3 ASSET MANAGEMENT SERVICES

#### 3.1 Engagement

The REIT hereby appoints Melcor, as an independent contractor, as of and from the Commencement Date, and Melcor accepts the appointment, to provide services in accordance with this Agreement.

#### 3.2 Asset Management Services

Melcor agrees to provide to the REIT and its Subsidiary Entities those services (collectively, the “**Asset Management Services**”) set forth in Schedule “A” attached hereto, subject to the overriding supervision of the REIT Trustees.

#### 3.3 Additional Services

The REIT and Melcor may from time to time agree in writing on additional services which are to be provided to the REIT and/or its Subsidiary Entities by Melcor (“**Additional Services**”) for which Melcor shall be compensated on terms to be agreed upon between Melcor and the REIT prior to the provision of any such Additional Services.

#### 3.4 Historical Disclosure

Melcor agrees that throughout the Initial Term and any Renewal Terms it will, subject to

Applicable Law and agreements relating to the disclosure (if any) of such information, at the request of the REIT or as required to perform the obligations of Melcor hereunder, provide the REIT with access to all strategic and historical information relating to the Initial Properties.

### 3.5 Personnel

- (a) The Parties acknowledge and agree that Melcor (together with its Affiliates) shall be responsible for performing the Asset Management Services or any Additional Services primarily through its dedicated management team and employees (collectively "**Personnel**").
- (b) Except as expressly provided herein, all costs relating to any Personnel including employment, termination or severance costs, shall be the responsibility of Melcor. The withholding and payment of any amounts required to be withheld and paid to any Governmental Authority in respect of Personnel engaged or employed by Melcor shall be withheld and paid by Melcor.
- (c) The Parties acknowledge that the persons acting as the chief executive officer of the REIT, chief financial officer of the REIT and any other executive officers provided by Melcor to the REIT in accordance with this Agreement shall be permitted, in addition to providing his or her services to the REIT, to provide services to Melcor and/ or its Affiliates.

### 3.6 Books and Records

Melcor shall keep proper, separate and complete books, records and accounts in which full, true and correct entries in conformity with GAAP and all requirements of Applicable Law will be made of all dealings and transactions in relation to the Asset Management Services and any Additional Services under this Agreement. Melcor shall permit the REIT and its representatives at reasonable times and intervals, and upon reasonable prior notice, to have access to and make copies of such books, records and accounts as they may reasonably require in respect of the Asset Management Services and any Additional Services.

### 3.7 Furnish Information

- (a) Melcor shall make available to the REIT and its representatives such information, documentation and material relating to the performance of the Asset Management Services and any Additional Services as and when the same may be reasonably requested in writing and otherwise give such co-operation as may be reasonably requested by the REIT or as may be necessary for the REIT's representatives to carry out their duties on behalf of the REIT.
- (b) Melcor shall, within a reasonable time of receipt, provide the REIT with copies of any material notices, claims or demands received by Melcor relating to the Investment Properties or the Asset Management Services.

### 3.8 Cooperation of the REIT

Subject to Applicable Law and agreements relating to confidentiality of disclosure (if

any), the REIT hereby authorizes Melcor to have full and complete access to the books, records and business premises and to whatever other information and material of the REIT and its Subsidiary Entities Melcor may reasonably consider necessary or desirable to discharge its duties hereunder. The REIT acknowledges that Melcor may in certain cases require the assistance and co-operation of the REIT and/ or its Subsidiary Entities in the performance of the duties of Melcor hereunder. In that regard, the REIT covenants and agrees to provide, or cause its Subsidiary Entities to provide, all assistance and co-operation on a timely basis reasonably necessary to enable Melcor to comply with its obligations herein.

## ARTICLE 4 SERVICE FEES

### 4.1 Fee for Asset Management Services

- (a) In consideration of providing the Asset Management Services to the REIT, the REIT shall pay to Melcor the fees (collectively the “**Service Fees**”) set forth in this Section 4.1.
- (b) The REIT shall pay to Melcor the following amounts:
  - (i) a base annual management fee calculated and payable in cash on a quarterly basis and in arrears on the first day of every third month equal to 0.25% of the Gross Book Value;
  - (ii) a capital expenditures fee (the “**Capital Expenditures Fee**”) equal to 5% of all hard construction costs incurred on Capital Projects with costs in excess of \$100,000, which such Capital Expenditures Fee specifically excluding work done on behalf of tenants or any maintenance expenditures;
  - (iii) an acquisition fee (the “**Acquisition Fee**”) equal to:
    - (A) 1.0% of that portion of the Purchase Price paid by the REIT or one or more Affiliates of the REIT for the purchase of any New Investment Property acquired in each Fiscal Year which is less than or equal to \$100,000,000;
    - (B) 0.75% of that portion of the Purchase Price paid by the REIT or one or more Affiliates of the REIT for the purchase of any New Investment Property acquired in each Fiscal Year which is greater than \$100,000,000 but less than or equal to \$200,000,000; and
    - (C) 0.50% of that portion of the Purchase Price paid by the REIT or one or more Affiliates of the REIT for the purchase of any New Investment Property acquired in each Fiscal Year which is greater than \$200,000,000;

and such Acquisition Fee shall be paid upon the completion of the purchase of each such New Investment Property. The Acquisition Fee will be paid in cash. Melcor and the REIT agree that no Acquisition Fee will be paid in respect of the acquisition of the Initial Properties or any



other properties acquired directly or indirectly from Melcor or an Affiliate of Melcor;

- (iv) a financing fee (the “**Financing Fee**”) equal to 0.25% of the debt and equity of all financing transactions completed for the REIT. The parties acknowledge that this fee is intended to cover the actual expenses of supplying services to the REIT relating to financing transactions, and is not intended to have a profit component for Melcor or any of its Affiliates. Accordingly, at the end of each Fiscal Year, there will be an adjustment made to reflect the actual amount of expenses of supplying such services incurred by Melcor in such Fiscal Year. To the extent that the Financing Fees paid by the REIT exceed the actual amount of such expenses, Melcor will reimburse the REIT for the difference. To the extent that the Financing Fees charged by Melcor are less than the actual amount of such expenses, the REIT will pay the difference as an additional Financing Fee amount. The Financing Fee and any reimbursement will be paid in cash. Melcor and the REIT agree that no Financing Fee will be paid in respect of the acquisition of the Initial Properties (and related assumption of existing mortgage debt on the Initial Properties) or the REIT’s initial public offering (or related over-allotment option).
- (c) For greater certainty, no Service Fees shall be earned or payable in connection with the transactions occurring at or in connection with the Closing.
- (d) The Service Fees shall be subject to review by Melcor and the Independent Trustees ~~at the end of the Initial Term~~ prior to: (i) May 1, 2023; and ~~at~~ (ii) the end of each ~~subsequent Renewal Term (each a “Renewal Date”)~~. In the event that Melcor and the Independent Trustees are unable to agree on current market fees for the Asset Management Services and the Additional Services (a “**Dispute**”) by May 1, 2023 or the applicable Renewal Date, such Dispute shall be settled by binding arbitration in accordance with the provisions of Section 10.1. In the event of a Dispute, the expiring Service Fees shall continue until such Dispute has been fully and finally determined in accordance with Section 10.1.

#### 4.2 Expenses

Melcor shall be reimbursed by the REIT for all reasonable actual out-of-pocket costs and expenses paid by Melcor in connection with the performance of the Asset Management Services and Additional Services, including the costs and expenses incurred by Melcor for travel, lodging and reasonable and necessary costs for experts and consultants reasonably required by Melcor and approved by the REIT. Such costs and expenses shall be paid by the REIT within 30 days following receipt by the REIT of documentation acceptable to the REIT, acting reasonably, evidencing the payment by Melcor of such costs and expenses. For greater certainty, it is acknowledged by Melcor that it is not intended that Melcor be reimbursed hereunder for any of its overhead, costs and certain other costs and expenses, including its office rent, office administrative costs and Personnel costs relating to the Asset Management Services.



#### 4.3 Payment and Apportionment of Service Fees

- (a) The Service Fee shall be paid in full within the time periods contemplated by Section 4.1 without deduction, abatement or setoff.
- (b) Except as otherwise provided for in this Agreement or with the Approval of the REIT, Melcor shall not be entitled to any other compensation, reimbursement or payment for the Asset Management Services.
- (c) Melcor shall apportion the Services Fees among the REIT and its Subsidiary Entities in a manner Approved by the REIT and shall issue its invoices to the REIT in accordance with such apportionment.
- (d) All amounts payable to Melcor pursuant to this Agreement shall be exclusive of any and all applicable goods and services tax, value-added tax, sales tax, use tax, stamp tax or similar Taxes applicable to such payments, including any HST or GST required to be paid thereon pursuant to the ETA and, unless the REIT or Melcor is exempt from such Taxes, Melcor shall be paid by the REIT or its Affiliates, as the case may be, in addition to the Service Fees and such other amounts payable to Melcor pursuant to this Agreement, all amounts of such Taxes collectible by Melcor with respect thereto. Melcor shall remit all amounts paid to it by the REIT or its Affiliates in respect of Taxes to the appropriate Governmental Authority, as applicable.
- (e) Any amount payable to Melcor hereunder and which is not remitted to Melcor when so due shall remain due (whether on demand or otherwise) and interest shall accrue on such overdue amounts (both before and after judgment) at a rate per annum equal to the prime rate charged by the REIT's principal bank plus four percent (4%) per annum from (and including) the date payment is due to (but excluding) the date payment is made.

### **ARTICLE 5 COVENANTS AND AUTHORITY OF MELCOR**

#### 5.1 Covenants of Melcor

- (a) Melcor covenants and agrees that it will (i) exercise its responsibilities hereunder honestly, in good faith, carefully and diligently and in the best interests of the REIT and its Subsidiary Entities, (ii) exercise the degree of care, diligence, judgment and skill that would be exercised by a professional, prudent and competent person who is experienced in performing services substantially similar to the Asset Management Services and any Additional Services and (iii) will use such inspection, quality control and other procedures as Melcor deems necessary, acting reasonably, to ensure that its duties and obligations hereunder are performed in accordance with the conditions hereof.
- (b) Melcor covenants and agrees that it will (i) use qualified individuals with suitable training, experience and skill to perform the Asset Management Services and any Additional Services, (ii) provide such administrative and other support to the Personnel as they may reasonably require to perform Melcor's duties hereunder, and (iii) dedicate the human, equipment and other resources which, in the

opinion of Melcor, acting reasonably, are necessary in order for Melcor to provide the Asset Management Services and any Additional Services.

- (c) Melcor shall perform the Asset Management Services and any Additional Services in a manner which is at all times consistent with assisting the REIT to carry on its business and affairs in compliance with the terms and conditions of the Declaration of Trust.
- (d) Melcor covenants and agrees that it will comply in all material respects with Applicable Law in the performance of the Asset Management Services and any Additional Services.

## 5.2 Melcor Acknowledgement Concerning Constatng Documents

Melcor acknowledges that it has received a copy of the Declaration of Trust and the Limited Partnership Agreement and is familiar with, and understands, the duties and obligations of the respective parties thereto, including those duties of the REIT Trustees and Melcor REIT GP which are being delegated to Melcor under this Agreement.

## 5.3 Additional Information

The REIT acknowledges that Melcor's provision of the Asset Management Services and any Additional Services as contemplated herein may have the incidental effect of providing Melcor with additional information in respect to or augmenting the value of properties in which Melcor or its Affiliates or Associates have an interest and the REIT agrees that neither Melcor nor its Affiliates or Associates shall be liable to account to the REIT or its Affiliates with respect to such activities or results; provided, however, that Melcor shall not, in making any use of any such information, do so in any manner that Melcor knew, or ought reasonably to have known, would cause or result in a breach of any confidentiality agreements to which the REIT is a party or is bound or would breach Melcor's obligations pursuant to Section 7.1.

## 5.4 Limit to Authority

Melcor acknowledges that it has no authority to act on behalf of the REIT or its Subsidiary Entities, except as explicitly provided under this Agreement or any other agreement between the Parties.

# ARTICLE 6 REPRESENTATIONS AND WARRANTIES

## 6.1 Representations and Warranties of Melcor

Melcor represents and warrants to the REIT that:

- (a) it is a corporation duly incorporated and existing pursuant to the laws of the Province of Alberta;
- (b) it has, and agrees that it will maintain, all requisite power, authority, licenses, permits, consents and other third party approvals and approvals of Governmental Authorities to execute, deliver and perform its obligations which

arise pursuant to or in respect of this Agreement and has taken necessary action to authorize the entering into and performance by it of this Agreement;

- (c) the performance by Melcor of its obligations hereunder does not, and will not, violate any agreements or obligations pursuant to which Melcor is bound;
- (d) this Agreement constitutes a legal, valid and binding obligation of Melcor, enforceable against Melcor in accordance with its terms, subject only to applicable bankruptcy, insolvency, re-organization, moratorium or other similar laws affecting creditors' rights generally and to equitable principles of general application;
- (e) Melcor is, and shall not cease to be, a resident of Canada for purposes of the Tax Act; and
- (f) Melcor is, and shall not cease to be, a registrant for the purposes of the ETA and its registration number has been provided to the REIT.

## 6.2 Representations and Warranties of the REIT

The REIT represents and warrants to Melcor that:

- (a) it is an unincorporated, open-ended limited purpose trust established under the laws of the Province of Alberta pursuant to the Declaration of Trust and has not been terminated;
- (b) it has, and agrees it will maintain, all requisite power and authority to execute, deliver and perform its obligations which arise pursuant to or in respect of this Agreement and has taken necessary action to authorize the entering into and performance by it of this Agreement;
- (c) the performance by the REIT of its obligations hereunder does not, and will not, violate any agreements or obligations pursuant to which the REIT is bound; and
- (d) this Agreement constitutes a legal, valid and binding obligation of the REIT, enforceable against the REIT in accordance with its terms, subject only to applicable bankruptcy, insolvency, re-organization, moratorium or other similar laws affecting creditors' rights generally and to equitable principles of general application.

## **ARTICLE 7 CONFIDENTIALITY, COMPETITION AND NON-SOLICITATION**

### 7.1 Confidentiality

Melcor shall not, without the prior written consent of the REIT, disclose to any third party any information about the REIT, Subsidiary Entities or their Affiliates (or any of them) acquired or developed in connection with the performance of the Asset Management Services and any Additional Services under this Agreement except that consent shall not be required to the following disclosure:

- (a) information disclosed as required by Applicable Law or as may be required by the regulations or policies of any Governmental Authority;
- (b) information disclosed as necessary for the purposes of any acquisitions, debt or equity financing undertaken by the REIT or any of its Affiliates; or
- (c) information disclosed that Melcor acting reasonably deems to be necessary to be disclosed, on a confidential basis, for the performance of its duties and obligations under this Agreement, including disclosure of information to Affiliates, consultants and other third parties engaged by or assisting Melcor in accordance with the terms of this Agreement in order to carry out the purposes of this Agreement.

The provisions of this Section 7.1 shall survive the termination of this Agreement.

## 7.2 Non-Solicitation of Melcor's Employees

- (a) Upon the termination of this Agreement pursuant to Section 9.2(a) the REIT shall not, without the prior written consent of Melcor, and the REIT shall cause its Affiliates not to, at any time within the eighteen (18) month period following the effective date of termination of this Agreement, directly or indirectly, solicit for employment and/or hire as an employee of the REIT or its Affiliates, any Personnel.
- (b) Upon the termination of this Agreement for any reason, the REIT shall not, without the prior written consent of Melcor, and the REIT shall cause its Affiliates not to, at any time within the eighteen (18) month period following the effective date of termination of this Agreement, directly or indirectly, solicit for employment and/or hire as an employee of the REIT or any of its Affiliates any Personnel; provided that, except in the case of a termination pursuant to Section 9.2(a), the REIT and its Affiliates shall be entitled to solicit for employment and/or hire as an employee any Personnel, other than any Personnel appointed as a senior officer of the REIT (including the chief executive officer and chief financial officer), for whom the REIT would have a severance obligation pursuant to the terms of this Agreement.
- (c) For greater certainty, this Section 7.2 shall not apply to the hiring or engagement of Personnel who respond to an advertisement by the REIT or its Affiliates available to the general public.
- (d) The provisions of this Section 7.2 shall survive the termination of this Agreement.

## 7.3 Other Activities of Melcor

The REIT acknowledges that Melcor and/or its Affiliates and/or its Associates are engaged in or may become engaged in a variety of other businesses. The REIT acknowledges and, subject to the terms of the Development and Opportunities Agreement, Restrictive Covenant Agreement and the Property Management Agreement, consents to any and all such activities and, subject to the terms of the Development and Opportunities Agreement, Restrictive Covenant Agreement and the Property Management Agreement agrees that nothing herein shall prevent Melcor or any of its

Affiliates or Associates or any of their respective officers, directors or employees from having other business interests, even though such business interests may be similar to or competitive with the affairs of the REIT or any of their Affiliates and, subject to the terms of the Development and Opportunities Agreement, Restrictive Covenant Agreement and the Property Management Agreement, Melcor and its Affiliates and Associates shall not be obligated to offer any business opportunities to the REIT or any of its Affiliates. Melcor and its Affiliates and Associates and their respective directors, officers and employees shall have the right independently to engage in and receive the full benefits from business activities whether or not similar to or competitive with the affairs of the REIT or their Affiliates, without consulting the REIT, subject to the terms of the Development and Opportunities Agreement, Restrictive Covenant Agreement and the Property Management Agreement.

#### 7.4 Remedies

The Parties acknowledge that a breach by a Party of the covenants contained in Section 7.1 and Section 7.2 may result in damages to the Parties such that a Party shall not be adequately compensated for such damages by monetary award alone. Accordingly, the Parties agree that in the event of any such breach, in addition to any other remedies available at law or otherwise, the affected Party shall be entitled as a matter of right to apply to a court of competent jurisdiction for, and obtain, relief by way of injunction, restraining order, decree or otherwise as may be appropriate to ensure compliance by the other Parties with such covenants. Any remedy expressly set out in this Agreement shall be in addition to and not inclusive of or dependent upon the exercise of any other remedy available at law or otherwise.

### ARTICLE 8 INDEMNIFICATION AND LIMITATION ON LIABILITY

#### 8.1 Indemnification of the REIT

(a) Subject to Section 8.6, Melcor shall indemnify and hold harmless the REIT and its Affiliates and their respective general partners, trustees, officers, directors, employees and representatives, as applicable (the “**REIT Indemnified Parties**”) from and against any and all Damages arising out of or resulting from or connected with:

- (i) any fraudulent, negligent or unlawful act or omission on the part of Melcor or its Affiliates and their respective officers, directors, Personnel, representatives or agents in performing its obligations hereunder;
- (ii) any inaccuracy or misrepresentation of a representation or warranty set forth in Section 6.1; and
- (iii) any breach or non-performance by Melcor of any of its material obligations hereunder;

in each case except to the extent such Damages are caused by:

- (iv) any fraudulent, negligent or unlawful act or omission on the part of any of the REIT Indemnified Parties;

- (v) a breach or non-performance by any of the REIT Indemnified Parties of any of the REIT's obligations hereunder;
  - (vi) any action taken by Melcor pursuant to the directions or written instructions of any of the REIT Indemnified Parties; or
  - (vii) any inaccuracy of any representation or warranty of the REIT contained in this Agreement.
- (b) The provisions of this Section 8.1 shall survive the termination of this Agreement.

## 8.2 Indemnification of Melcor

- (a) The REIT shall indemnify and hold harmless Melcor, its officers, directors, employees and agents, as applicable (the "**Melcor Indemnified Parties**") from and against any and all Damages arising or resulting from or connected with:

- (i) any fraudulent, negligent or unlawful act or omission of the REIT or its Affiliates and their respective general partners, trustees, officers, directors, employees and representatives in respect of its obligations hereunder;
- (ii) any breach or non-performance by the REIT of any of its material obligations hereunder;
- (iii) any action taken by Melcor pursuant to the directions or written instructions of any of the REIT Indemnified Parties; and
- (iv) any injury to any Personnel or other Person or damage to personal property in or about any Property by reason of any cause whatsoever;

in each case except to the extent such Damages are caused by:

- (v) any fraudulent, negligent or unlawful act on the part of the Melcor Indemnified Parties;
  - (vi) any action taken by the Melcor Indemnified Parties outside the scope of Melcor's authority pursuant to this Agreement;
  - (vii) any breach or non-performance by any of the Melcor Indemnified Parties of any of Melcor's obligations hereunder; or
  - (viii) any inaccuracy of any representation or warranty of the Melcor contained in this Agreement.
- (b) The provisions of this Section 8.2 shall survive the termination of this Agreement.

## 8.3 Indemnification in Respect of Employees on Termination of this Agreement

- (a) In addition to any other rights or remedies available to Melcor at law, equity or otherwise:

- (i) if this Agreement is terminated for any reason other than pursuant to Section 9.1(a), Section 9.2(b) or Section 9.2(c), the REIT shall indemnify and save harmless Melcor from and against any and all Melcor Employee Severance Costs; and
- (ii) if this Agreement is terminated for any reason and the REIT or any of its Affiliates employs any Personnel within twelve (12) months of the effective date of such termination, the REIT or such Affiliate shall indemnify and save harmless Melcor and its Affiliates from and against and reimburse Melcor for any and all severance and termination payments and costs actually paid or payable by Melcor or its Affiliates in respect of such Personnel.

(b) The provisions of this Section 8.3 shall survive the termination of this Agreement.

#### 8.4 Removal of Senior Officer of the REIT

The REIT may, at its discretion, require the removal of any person acting as a senior officer of the REIT (including the chief executive officer and chief financial officer) pursuant to this Agreement. If the REIT requests the removal, without cause, of any senior officer of the REIT (including the chief executive officer and chief financial officer) whose services are being provided by Melcor or an Affiliate of Melcor under this Agreement, the REIT shall reimburse and indemnify and save harmless Melcor or such Affiliate from and against any and all severance and termination payments and costs (if any) actually incurred by Melcor or its Affiliates arising out of any claim, action or proceeding related to the removal of such senior officer in respect of:

- (a) the period after Closing that such senior officer has worked on REIT matters; and
- (b) the proportion of such senior officer's services attributable to REIT matters.

#### 8.5 Cost Limitation in Respect of REIT's Liability for Severance and Termination

The REIT shall not be liable to indemnify Melcor or its Affiliates for any severance or termination payments and costs in respect of Melcor's or its Affiliates' employees except as explicitly provided herein.

#### 8.6 Exculpatory Clause

The REIT acknowledges that so long as Melcor has acted in accordance with the standard of care set out in Section 5.1, Melcor shall not be liable, answerable or accountable for any consequences resulting from, incidental to or relating to the provision of the Asset Management Services and any Additional Services hereunder by Melcor, including any exercise or refusal to exercise a discretion, any mistake or error of judgment or any act or omission believed by Melcor to be within the scope of authority conferred on it by this Agreement, unless such loss or damage resulted from:

- (a) any fraudulent, negligent or unlawful act or omission on the part of Melcor in performing its obligations hereunder; or



- (b) any breach or non-performance by Melcor of any of Melcor's material obligations hereunder.

#### 8.7 Limitation of Liability for REIT

- (a) The Parties acknowledge that this Agreement shall be conclusively taken to have been executed by, or by an officer of the REIT on behalf of, the REIT Trustees only in their capacity as trustees under the Declaration of Trust. The Parties hereby disclaim any liability upon and waive any claim against Unitholders and any annuitants or beneficiaries of a trust governed by a registered retirement savings plan, registered retirement income fund, registered education savings plan or deferred profit sharing plan or under plans of which Unitholders act as trustee or carrier and the obligations created hereunder are not personally binding upon, nor shall resort be had to, nor shall recourse or satisfaction be sought from, the private property of any REIT Trustee or any Unitholders or such annuitant or beneficiary. Melcor expressly agrees that recourse under this Agreement shall be limited to the property, assets, rights and interests held by or on behalf of the REIT. It is agreed that the benefit of this provision is restricted to the REIT Trustees and officers, each Unitholder and such annuitants or beneficiaries and, solely for that purpose, the undersigned signing officer of the REIT has entered into this provision as agent and trustee for and on behalf of the REIT Trustees, each Unitholder and each such annuitant or beneficiary.
- (b) The provisions of this Section 8.7 shall survive the termination of this Agreement.

#### 8.8 Insurance

The REIT shall, on behalf of those employees of Melcor acting as senior officers of the REIT, purchase and maintain insurance at its own expense against any liability that may be asserted against or expense that may be incurred by such employees in connection with the REIT's activities, whether or not the REIT would have the obligation to indemnify those Persons against those liabilities under the provisions of this Agreement.

### ARTICLE 9 TERMINATION

#### 9.1 Termination Rights of the REIT

- (a) The REIT may terminate this Agreement immediately upon the occurrence of an Event of Default by Melcor.
- ~~(b) On each Renewal Date (including the Renewal Date occurring on the fifth (5<sup>th</sup>) anniversary of Closing), and subject to the approvals required pursuant to Section 9.1(d), the REIT may terminate this Agreement on: (i) one (1) year's prior written notice; or (ii) payment in lieu thereof in accordance with Section 9.1(f).~~
- (b) ~~(c)~~ The REIT may terminate this Agreement upon a Change of Control of Melcor effective on the date of such Change of Control of Melcor.
- (c) ~~(d) At least one (1) year prior to the applicable Renewal Date, the Independent Trustees shall review the performance of Melcor and, if~~ a majority of the



Independent Trustees (i) determine that it is in the best interests of the REIT to internalize the Asset Management Services or (ii) are not satisfied with the performance by Melcor of its duties hereunder, in each case as evidenced by ~~the approval of the majority of the Independent Trustees, the Independent Trustees may submit the termination of this Agreement to a vote of Unitholders (including the holders of Special Voting Units) and this Agreement shall be so terminated upon approval of a simple majority of the votes cast by Unitholders (including the holders of Special Voting Units) at a meeting duly called for such purpose (or by written~~ a resolution ~~in lieu thereof).~~

~~(e) — Upon the REIT achieving a Gross Book Value of \$1,150,000,000, if~~ of a majority of the Independent Trustees ~~determine that it is in the best interests of the REIT to internalize the Asset Management Services~~, then the REIT may terminate this Agreement on : (iA) one (1) year's prior written notice; or ~~(iiB)~~ (fD) payment in lieu thereof in accordance with Section 9.1(fd).

(d) ~~(f) — Upon the termination of this Agreement pursuant to Section 9.1(bc)(ii) or 9.1(e)(ii), the REIT shall pay Melcor an amount equal to twelve (12) months of Service Fees to be calculated based on the Service Fees paid to Melcor hereunder over the twelve (12) months immediately preceding such termination.~~

## 9.2 Termination Rights of Melcor

- (a) Melcor may terminate this Agreement immediately upon the occurrence of an Event of Default by the REIT.
- (b) Melcor may terminate this Agreement upon one year's prior notice to the REIT after the later of: (i) the date that Melcor owns, directly or indirectly, less than twenty percent (20%) of the Units (calculated on a fully converted and diluted basis); and (ii) ~~ten (10) years from the date hereof~~ May 1, 2023.
- (c) Upon a Change of Control of the REIT and upon Melcor terminating this Agreement within the twelve (12) months following such Change of Control of the REIT (which it shall be entitled to do), the REIT shall pay Melcor an amount equal to twelve (12) months of Service Fees to be calculated based on the Service Fees paid to Melcor hereunder over the twelve (12) months immediately preceding such termination, provided that Melcor will not be entitled to any reimbursement for severance costs, termination costs or payments incurred by it, except in respect of any Personnel employed by the REIT or its Affiliates within the twelve (12) months following the effective date of such termination.

## 9.3 Return of Records

Upon termination of this Agreement for any reason, Melcor, at the request of the REIT, shall forthwith deliver to the REIT, or as the REIT may direct, a full and final accounting and all original records, documents and books of account relating to the Asset Management Services and any Additional Services provided hereunder (other than proprietary systems owned by Melcor, provided that the REIT shall be provided reasonable access to such proprietary systems for a period of ninety (90) days following the effective date of termination), which are then in the possession or control of Melcor or its Affiliates provided, however, that Melcor may retain copies of such records,

documents and books of account for its own purposes. Where such data is in electronic form, it shall be made available in useable electronic format.

#### 9.4 Final Balance

Upon termination of this Agreement for any reason, the REIT shall pay to Melcor all earned and unpaid amounts due to Melcor hereunder up to (and including) the date of termination. In addition, upon termination of this Agreement for any reason, the REIT shall pay Service Fees to Melcor in respect of transactions that have been approved or committed to by the REIT or any of its Affiliates, but not yet completed, as of the date of termination which would have otherwise been payable if such transactions had been completed as of the date of termination.

#### 9.5 Assumption of Contracts Upon Termination

Upon termination of this Agreement for any reason, the REIT or any of its Affiliates, as applicable, shall assume all contracts entered into by Melcor relating to the Asset Management Services and any Additional Services provided hereunder, if such contracts have been entered into in accordance with the provisions of this Agreement, and indemnify Melcor from and after the effective date of termination of this Agreement against any liability by reason of anything done or required to be done under any such contracts unless such liability results from the fraud, wilful misconduct or gross negligence of Melcor or any act or omission of Melcor which constitutes a breach of this Agreement.

#### 9.6 Orderly Transition Upon Termination or Notice of Termination

- (a) Upon termination of this Agreement for any reason, Melcor shall, at the expense of the REIT, co-operate and work diligently with the REIT in effecting the transition of the Asset Management Services and any Additional Services to a new service provider or the REIT itself, as the case may be, in an orderly manner as soon as reasonably practicable.
- (b) Upon the delivery of a notice of termination of this Agreement to Melcor or the REIT, as applicable, (i) the Parties shall work diligently to prepare and settle a transition plan within thirty (30) days of the receipt of such notice of termination, with the objective of such transition plan being to facilitate an efficient transition of the Asset Management Services and any Additional Services as soon as reasonably practicable.

### **ARTICLE 10 ARBITRATION**

#### 10.1 Arbitration

In the event of a Dispute, and upon written notice by either Melcor or the REIT Trustees to the other, such Dispute shall be finally settled by arbitration in accordance with the provisions of the *Arbitration Act* (Alberta), based upon the following:

- (a) the arbitrator shall be a person knowledgeable in property and asset management, appointed by mutual agreement of Melcor and the REIT Trustees, or in the event of failure to agree within fifteen (15) days following delivery of the

written notice to arbitrate, each of Melcor and the REIT Trustees may apply to a judge of a court of competent jurisdiction in Alberta to appoint an arbitrator. In all cases, the arbitrator shall be qualified by education and training to pass upon the particular matter to be decided;

- (b) the arbitrator shall be instructed that time is of the essence in the arbitration proceeding and, in any event, the arbitration award must be made within thirty (30) days of the submission of the Dispute to arbitration;
- (c) after written notice is given to refer any Dispute to arbitration, Melcor and the REIT Trustees shall meet within fifteen (15) days of delivery of the notice and shall negotiate in good faith any changes in these arbitration provisions or the rules of arbitration which are herein adopted, in an effort to expedite the process;
- (d) the arbitration shall take place in Edmonton, Alberta or any other place mutually agreed to by Melcor and the REIT Trustees;
- (e) the arbitration award shall be given in writing and shall be final and binding on Melcor and the REIT Trustees, not subject to any appeal, and shall deal with the question of costs of arbitration and all related matters;
- (f) judgment upon any award may be entered in any court having jurisdiction or application may be made to the court for a judicial recognition of the award or an order of enforcement, as the case may be;
- (g) all Disputes referred to arbitration shall be governed by the substantive law of Alberta; and
- (h) except as required by Applicable Law, Melcor and the REIT Trustees agree that the arbitration shall be kept confidential and that the existence of the proceeding and any element of it (including any pleadings, briefs or other documents submitted or exchanged, any testimony or other oral submissions and any awards) shall not be disclosed beyond the arbitrator, Melcor and the REIT Trustees, their counsel and any person necessary to the conduct of the proceeding, except as may lawfully be required in judicial proceedings relating to the arbitration or otherwise.

## **ARTICLE 11 GENERAL**

### **11.1 No Partnership**

Melcor and the REIT acknowledge that they are independent contractors and that it is not intended by entering into this Agreement to form a partnership of any nature whatsoever between them, nor is it intended by carrying out the terms hereof that they should be characterized as carrying on business in partnership. Each of the Parties shall not take or omit to take any action whatsoever which might reasonably result in any Person believing that the Parties are carrying on business in partnership and each of them shall cooperate to take all steps necessary and desirable to avoid the creation of such an impression of partnership.

## 11.2 Approval

Wherever the provisions of this Agreement require an approval, consent or agreement (individually or collectively referred to as an “**Approval**” or “**Approved**”) unless the contrary is expressed herein:

- (a) the Party whose Approval is required shall, within ten (10) Business Days of receipt of a written request for Approval accompanied by reasonable detail, if the circumstances require, notify the requesting Party, in writing, either that it approves or that it withholds its approval setting forth, in reasonable detail, its reasons for withholding;
- (b) the Party requesting the Approval shall consult with the Party whose Approval is required and provide any information concerning the same requested by the Party whose Approval is required; and
- (c) if the notification referred to in (a) above is not given within the applicable period of time, the Party whose Approval is requested shall be deemed conclusively to have given its Approval in writing.

## 11.3 Notices

All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed conclusively to have been given on the date of delivery or date sent by facsimile or other means of prepaid, transmitted or recorded communications or, if mailed, five days from the date of mailing. If any such notice or communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities, such notice or communication shall be deemed to have been received forty eight (48) hours after 12:01 a.m. (Edmonton time) on the day following the resumption of normal mail service, provided that during the period that regular mail service shall be interrupted any notice or other communication shall be given by personal delivery or by facsimile or other means of prepaid, transmitted or recorded communication. Such notices, demands and other communications shall be delivered to the Parties at the respective addresses indicated below:

- (a) the REIT:  
  
c/o 900, 10310 Jasper Avenue  
Edmonton, Alberta T5J 3Y8  
Attention: Chief Executive Officer
- (b) Melcor:  
  
900, 10310 Jasper Avenue  
Edmonton, Alberta T5J 3Y8  
Attention: Chief Executive Officer

## 11.4 Waiver

No waiver of any provision of this Agreement shall be binding unless it is in writing. No

indulgence or forbearance by a Party shall constitute a waiver of such Party's right to insist on performance in full and in a timely manner of all covenants in this Agreement. Waiver of any provision shall not be deemed to waive the same provision thereafter, or any other provision of this Agreement at any time.

#### 11.5 Further Assurances

Each Party shall act in good faith in performing its obligations and exercising its rights herein and shall promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Party may reasonably require from time to time for the purpose of giving effect to this Agreement and shall use reasonable commercial efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

#### 11.6 Entire Agreement

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether oral or written, of the Parties pertaining thereto, including the Original Asset Management Agreement. There are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth in this Agreement.

#### 11.7 Assignment

~~Subject to the right of Melcor to subcontract services in accordance with Section 3.7 hereof, neither~~ Neither this Agreement nor any of the rights and obligations arising from it shall be assignable in whole or in part by any Party, except with the prior written approval of the other Party which approval shall not be unreasonably withheld. Notwithstanding the preceding sentence, no consent is required for a Party to assign this Agreement to an Affiliate so long as such Person remains an Affiliate.

#### 11.8 Successors and Assigns

All of the terms and provisions of this Agreement shall be binding upon the Parties hereto and their respective permitted successors and assigns.

#### 11.9 Time of the Essence

Time is of the essence to every provision of this Agreement. Extension, waiver or variation of any provision of this Agreement shall not be deemed to affect this provision and there shall be no implied waiver of this provision.

#### 11.10 Amendments

This Agreement may not be modified or amended except by written agreement of the Parties.

#### 11.11 Severability

If any covenant, obligation or agreement of this Agreement, or the application thereof, to

any Person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each covenant, obligation and agreement of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

#### 11.12 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable in such province and the Parties irrevocably attorn to the non-exclusive jurisdiction of the courts of such province.

#### 11.13 Counterparts

This Agreement may be executed in any number of counterparts, and delivered via facsimile or by electronic transmission in portable document format (PDF), and each such counterpart so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument.

#### 11.14 Bryan & Company LLP Acting for More Than One Party

Each of the Parties has been advised and acknowledges that Bryan & Company LLP are acting as counsel to and jointly representing each Party and, in this role, information disclosed to Bryan & Company LLP by one Party will not be kept confidential and will be disclosed to all Parties and each of the Parties consents to Bryan & Company LLP so acting. In addition, should a conflict arise between any of the Parties, Bryan & Company LLP may not be able to continue to act for any of such Parties.

IN WITNESS WHEREOF the Parties have duly executed this Agreement on the date written on the first page of this Agreement.

**MELCOR DEVELOPMENTS LTD.**

Per: \_\_\_\_\_

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

Title: \_\_\_\_\_

**MELCOR REAL ESTATE INVESTMENT TRUST**

Per: \_\_\_\_\_

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

Title: \_\_\_\_\_

## **SCHEDULE "A"**

### **SERVICES**

Subject to the oversight of the REIT Trustees, and as instructed by the REIT from time to time, the Property Management Services shall include:

- advisory, consultation and investment management services and monitoring financial performance;
- providing the services of members of Melcor's senior management team to act as chief executive officer and chief financial officer;
- advise the REIT Trustees on strategic matters, including potential acquisitions, dispositions, financings and development;
- provide guidance to the property manager on operations, expenses and capital expenditures;
- identify, evaluate, recommend and assist in the structuring of acquisitions, dispositions, financings and other transactions;
- advise and assist with borrowings, issuances of securities and other capital requirements, including assistance in dealings with banks and other lenders, investment dealers, institutions and investors;
- make recommendations with respect to the payment of distributions;
- provide advice in connection with the preparation of business plans and annual budgets, implement such plans and budgets and monitor financial performance;
- advise with respect to investor relations strategies and activities;
- advise with respect to regulatory compliance requirements, risk management policies and certain litigation matters;
- certain management and general administrative services, including keeping and maintaining books and records; preparing returns, filings and documents and making determinations necessary for the discharge of the REIT's obligations and those of the REIT Trustees; and
- certain administrative and support services, including office space, office equipment and communications services and computer systems, secretarial support personnel and reception and telephone answering services, installing and maintaining signage and promotional materials and such other administrative services as may be reasonably required from time to time.



**MELCOR DEVELOPMENTS LTD.**

**and**

**MELCOR REAL ESTATE INVESTMENT TRUST**

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**AMENDED AND RESTATED PROPERTY MANAGEMENT  
AGREEMENT**

**MAY 1<sup>st</sup>, ~~2013~~2022**

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## AMENDED AND RESTATED PROPERTY MANAGEMENT AGREEMENT

THIS AGREEMENT is made as of May 4<sup>▲</sup>, 2013~~2022~~.

BETWEEN:

**MELCOR DEVELOPMENTS LTD.**, a body corporate duly  
incorporated pursuant to the laws of the Province of Alberta  
(**"Melcor"**)

-and-

**MELCOR REAL ESTATE INVESTMENT TRUST**, an unincorporated,  
open-ended real estate investment trust established  
under the laws of the Province of Alberta  
(the **"REIT"**)

WHEREAS:

- A. The REIT has been formed to own a portfolio of income producing real properties;
- B. Melcor and its Affiliates are engaged in, among other things, the business of acquiring, owning, developing, investing in, managing and operating commercial and residential income producing real properties in Canada and the United States;
- C. ~~The~~ Pursuant to a property management agreement dated May 1, 2013 (the **"Original Property Management Agreement"**), the REIT ~~wishes to retain~~ retained Melcor to provide the Property Management Services and any Additional Services in respect of the Investment Properties ~~and Melcor wishes to provide such Property Management Services and any Additional Services~~;
- D. The REIT and Melcor wish to amend and restate the Original Property Management Agreement pursuant to the terms and conditions herein contained;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

Where used in this Agreement, unless the context expressly or by necessary implication otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

- (a) **"Affiliate"** of a Person means any Person that would be deemed to be an affiliated entity of such Person within the meaning of National Instrument 45-106-*Prospectus and Registration Exemptions*, as replaced or amended from time to time (including any successor rule or policy thereto), if the term "person" therein was as defined in this Agreement. For greater certainty, Melcor shall not

be considered an Affiliate of the REIT or Melcor REIT GP and neither the REIT nor Melcor REIT GP shall be considered an Affiliate of Melcor;

- ~~(b)~~ ~~“Aggregate Base Rent for New Leases” means the aggregate dollar amount of all base rent payable during the initial term of all such leases by tenants of the Investment Properties who were not Existing Tenants, but who, subsequent to Closing, entered into lease agreements and become tenants of the Investment Properties;~~
- ~~(c)~~ ~~“Aggregate Rent for Lease Renewals and Expansions” means the aggregate dollar amount of all base rent payable pursuant to all Renewal and Expansion Agreements during the initial term of all such Renewal and Expansion Agreements;~~
- (b) ~~(d)~~ **“Applicable Law”** means, with respect to any Person, property, transaction, event or other matter, any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, order or other requirement having the force of law (collectively, the **“Law”**) relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of the Law (or any part thereof) by any Person having jurisdiction over it;
- (c) ~~(e)~~ **“Approval”** has the meaning set out in Section 11.2;
- (d) ~~(f)~~ **“Approved”** has the meaning set out in Section 11.2;
- (e) ~~(g)~~ **“Asset Management Agreement”** means the asset management agreement ~~to be~~ entered into at Closing between the REIT and Melcor, as such agreement may be amended, supplemented or amended and restated from time to time;
- (f) ~~(h)~~ **“Associate”** when used to indicate a relationship with a Person has the meaning ascribed thereto in the *Securities Act* (Alberta);
- (g) ~~(i)~~ **“Budget”** has the meaning set out in Section 4.3(a);
- (h) ~~(j)~~ **“Business Day”** means any day other than a Saturday, Sunday or statutory holiday in the Province of Alberta;
- (i) ~~(k)~~ **“Change of Control of Melcor”** means the occurrence of any transaction or event as a result of which, at any time in respect of Melcor, any Person or Persons, other than Melton Holdings Ltd. or one or more of its Affiliates, shall own, acquire or possess Control of Melcor;
- (j) ~~(l)~~ **“Change of Control of the REIT”** means the occurrence of any transaction or event as a result of which, at any time in respect of the REIT, any Person or Persons, other than Melcor or one or more Affiliates of Melcor shall own, acquire or possess Control of the REIT, other than a change of Control caused by Melcor or an Affiliate thereof;
- (k) ~~(m)~~ **“Class B LP Units”** means the Class B, exchangeable, non-voting limited partnership units of the Limited Partnership;

- (l) ~~(h)~~ “**Closing**” means the closing of the IPO and the acquisition, directly or indirectly, by the REIT or its Affiliates of the Initial Properties and other related transactions, all of which are described in the Prospectus;
- (m) ~~(e)~~ “**Commencement Date**” means the date of this Agreement as first set out above;
- (n) ~~(p)~~ “**Control**” means as follows: a Person (first person) is considered to Control another Person (second person) if: (i) the first person beneficially owns, or controls or directs, directly or indirectly, securities of the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors (or trustees) of the second person, unless that first person holds the voting securities only to secure an obligation; (ii) the second person is a partnership, other than a limited partnership, and the first person holds more than 50% of the interests of the partnership; or (iii) the second person is a limited partnership and the general partner (or if there is more than one general partner, the managing general partner) of the limited partnership is the first person (or the person who Controls such general partner pursuant to clause (i) of this definition is the first person);
- (o) ~~(q)~~ “**Damages**” means any loss, cost, liability, claim, interest, fine, penalty, assessment, damages available at law or in equity, expense (including actual, reasonable costs, fees and expenses of legal counsel on a full indemnity basis, without reduction for tariff rates or similar reductions and reasonable costs, fees and expenses of investigation) or diminution in value;
- (p) ~~(r)~~ “**Declaration of Trust**” means the declaration of trust of the REIT made as of January 25<sup>th</sup>, 2013 and amended and restated as of Closing, as it may be further amended, supplemented or amended and restated from time to time;
- (q) ~~(s)~~ “**Development and Opportunities Agreement**” means the development and opportunities agreement ~~to be~~ entered into at Closing between the REIT and Melcor, as such agreement may be amended, supplemented or amended and restated from time to time;
- (r) ~~(t)~~ “**Dispute**” has the meaning set out in Section 4.1(~~f~~e);
- (s) ~~(u)~~ “**ETA**” means the *Excise Tax Act* (Canada);
- (t) ~~(v)~~ “**Event of Default by Melcor**” means:
- (i) the occurrence of an Event of Insolvency in respect of Melcor;
  - (ii) a material breach by Melcor of the terms of this Agreement if such material breach is not cured within thirty (30) days of receipt by Melcor of written notice of such material breach from the REIT unless Melcor has commenced rectification of such material breach within such thirty (30) day period and thereafter promptly, diligently and continuously proceeds with the rectification of such breach;
  - (iii) fraudulent misconduct of, or the misappropriation of funds by, Melcor;

- (iv) an act of gross negligence by Melcor;
- (v) a default by Melcor under the Development and Opportunities Agreement, that results in the termination by the REIT of such applicable agreement;
- (vi) a default by Melcor under the Asset Management Agreement, that results in the termination by the REIT of such applicable agreement; or
- (vii) a default by Melcor under the Restrictive Covenant Agreement;

(u) ~~(w)~~ **“Event of Default by the REIT”** means:

- (i) the occurrence of an Event of Insolvency in respect of the REIT; or
- (ii) a material breach by the REIT of the terms of this Agreement if such material breach is not cured within thirty (30) days of receipt by the REIT of written notice of such material breach from Melcor unless the REIT has commenced rectification of such material breach within such thirty (30) day period and thereafter promptly, diligently and continuously proceeds with the rectification of such breach;

(v) ~~(x)~~ **“Event of Insolvency”** means any one or more of the following events in respect of Melcor or the REIT, respectively:

- (i) if the Party is:
  - (1) wound up, dissolved or liquidated, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada) or any successor legislation thereto or has its existence terminated or has any resolution passed therefor;
  - (2) makes a general assignment for the benefit of its creditors or a proposal (including the filing of a notice of intention to make a proposal) under the *Bankruptcy and Insolvency Act* (Canada) or any successor legislation thereto; or
  - (3) proposes a compromise or arrangement under the *Companies' Creditors Arrangement Act* (Canada) or any successor legislation thereto or files any petition or answer seeking a stay of proceedings or any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for the benefit of creditors;
- (ii) if a court of competent jurisdiction enters an order, judgment or decree approving a petition or application filed against the Party seeking a stay of proceedings or any reorganization, arrangement, composition, readjustment, liquidation, dissolution, winding up, termination of existence, declaration of bankruptcy or insolvency or similar relief under any present or future law relating to bankruptcy, insolvency or other relief for or against debtors and such Party acquiesces in the entry of such



order, judgment or decree and such order, judgment or decree remains un-vacated or un-stayed for an aggregate of thirty (30) days (whether or not consecutive) from the day of entry thereof; or if any trustee in bankruptcy, receiver, receiver and manager, liquidator or any other officer with similar powers shall be appointed for such Party or of all or any substantial part of its property with the consent or acquiescence of such Party or such appointment remains un-vacated or un-stayed for an aggregate of thirty (30) days (whether or not consecutive);

- (iii) the Party becomes insolvent or admits its inability to pay its debts generally as they become due; or
- (iv) an encumbrancer takes possession of all or substantially all of a Party's assets and such possession remains for a period of fifteen (15) days (whether or not consecutive);

(w) ~~(v)~~ **“Existing Tenants”** means tenants of the Initial Properties who were tenants as of Closing;

(x) ~~(z)~~ **“Expenses”** has the meaning set out in Section 4.3(a);

(y) ~~(aa)~~ **“GAAP”** means Canadian generally accepted accounting principles for publicly accountable enterprises as defined by the Accounting Standards Board of The Canadian Institute of Chartered Accountants, as amended from time to time, which, for fiscal years beginning on or after January 1, 2011, is International Financial Reporting Standards;

(z) ~~(bb)~~ **“Governmental Authority”** means any national, federal, state, provincial, county, municipal, district or local government or government body, or any public, administrative or regulatory agency, political subdivision, commission, court, arbitral body, board or representative of any of the foregoing, foreign or domestic, of, or established by, any such government or government body which has authority in respect of a particular matter or any quasi-governmental body having the right to exercise any regulatory authority thereunder;

(aa) ~~(cc)~~ **“Gross Book Value”** has the meaning ascribed thereto in the Declaration of ~~trust~~ Trust;

(bb) ~~(dd)~~ **“Gross Investment Property Revenue”** means, in respect of the Limited Partnership (and/or other Subsidiary Entities which own Investment Properties (if any)), all revenue received or receivable from the real property owned directly or indirectly by the Limited Partnership (other than real property in respect of which the Limited Partnership is required to, directly or indirectly, pay property management fees to a third party (including Melcor) other than pursuant to the this Agreement), including (i) related proceeds of business or rental interruption insurance, after deduction for insurance deductibles and excluding (ii) lease termination fees, actual bad debts, gains on sales, and the differential between in-place rents and below or above market rents, determined in accordance with the applicable accounting principles of the Limited Partnership at the time of calculation;

- (cc) ~~(ee)~~ “**GST**” means the tax imposed under subsection 165(1) of the ETA;
- (dd) ~~(ff)~~ “**HST**” means any harmonized sales tax which combines a province's sales tax with the tax imposed under subsections 165(1) and 165(2) of the ETA;
- (ee) ~~(gg)~~ “**Independent Trustee**” means a REIT Trustee who, in relation to the REIT, from and after the Closing, is “independent” within the meaning of National Instrument 58-101 - *Disclosure of Corporate Governance Practices*, as replaced or amended from time to time (including any successor rule or policy thereto);
- (ff) ~~(hh)~~ “**Initial Properties**” has the meaning ascribed thereto in the Prospectus;
- (gg) ~~(ii)~~ “**Initial Term**” has the meaning set out in Section 2.1;
- (hh) ~~(jj)~~ “**Investment Properties**” means all real properties, including the Initial Properties and the New Investment Properties, and any interest therein, which the REIT directly or indirectly owns from time to time, and “**Investment Property**” means any one of them;
- (ii) ~~(kk)~~ “**IPO**” means the initial offering of Units to the public pursuant to the Prospectus;
- ~~(ll)~~ — “**Lease Fee**” has the meaning set out in Section 4.1(c);
- ~~(mm)~~ — “**Lease Fee Dispute**” has the meaning set out in Section 4.1(d);
- (jj) ~~(nn)~~ “**Limited Partnership**” means Melcor REIT Limited Partnership, a limited partnership pursuant to the laws of the Province of Alberta;
- (kk) ~~(oo)~~ “**Limited Partnership Agreement**” means the limited partnership agreement governing the Limited Partnership, as it may be amended, supplemented or amended and restated from time to time;
- (ll) ~~(pp)~~ “**Melcor Employee Severance Costs**” means any and all severance or termination payments and costs (if any) actually incurred by Melcor or its Affiliates in respect of employees of Melcor or its Affiliates arising out of or resulting from the ensuing termination of redundant or surplus employees as a consequence of the termination of this Agreement (other than pursuant to Section 9.1(a), Section 9.2(b) or Section 9.2(c)) in respect of the period after Closing that each such employee has worked on REIT matters and based on the proportion of each such employee's services attributable to REIT matters;
- (mm) ~~(qq)~~ “**Melcor Indemnified Parties**” has the meaning set out in Section 8.2;
- (nn) “**Melcor Lease Fee**” has the meaning set out in Section 4.1(c);
- (oo) “**Melcor Lease Fee Dispute**” has the meaning set out in Section 4.1(b);
- (pp) ~~(rr)~~ “**Melcor New Investment Property**” means any New Investment Property acquired, directly or indirectly, from a Melcor Related Party;

- (qq) ~~(ss)~~ **“Melcor REIT GP”** means Melcor REIT GP Inc., a corporation incorporated pursuant to the laws of the Province of Alberta;
- (rr) ~~(tt)~~ **“Melcor Related Parties”** means Melcor and any party that is Affiliated with or related to Melcor (including any person Controlled by or Controlling Melcor or under common Control therewith), and ~~“Melcor Related Party”~~ means any one of the Melcor Related Parties;
- (ss) ~~(uu)~~ **“New Investment Property”** means any real property, or interest therein, other than the Initial Properties, acquired, directly or indirectly, by the REIT or any of its Affiliates during the operation of this Agreement, including any Melcor New Investment Property;
- (tt) ~~(vv)~~ **“Parties”** means the REIT and Melcor, and **“Party”** means any one of the Parties;
- (uu) ~~(ww)~~ **“Person”** means and includes any individual, general partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, joint stock company, association, trust, trust company, bank, pension fund, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or other organization or entity, whether or not a legal entity, however designated or constituted;
- (vv) ~~(xx)~~ **“Personnel”** has the meaning set out in Section 3.5;
- (ww) ~~(yy)~~ **“Property Management Services”** has the meaning set out in Section 3.2;
- (xx) ~~(zz)~~ **“Prospectus”** means the final prospectus of the REIT dated April 19, 2013, as the same may be amended or amended and restated from time to time;
- (yy) ~~(aaa)~~ **“REIT Indemnified Parties”** has the meaning set out in Section 8.1;
- (zz) ~~(bbb)~~ **“REIT Trustees”** means the trustees holding office, from time to time, of the REIT pursuant to the Declaration of Trust;
- (aaa) ~~(ccc)~~ **“Renewal and Expansion Agreement”** means a lease renewal, extension or premises expansion agreement entered into by an Existing Tenant after Closing with respect to a leased premises occupied by such Existing Tenant as at Closing;
- (bbb)
- (ccc) ~~(ddd)~~ **“Renewal Date”** means the end of the Initial Term or the end of each subsequent Renewal Term, as applicable;
- (ddd) ~~(eee)~~ **“Renewal Term”** has the meaning set out in Section 2.2;
- (eee) ~~(fff)~~ **“Restrictive Covenant Agreement”** means the restrictive covenant agreement ~~to be~~ entered into at Closing between the REIT and Melcor, as such

agreement may be amended, supplemented or amended and restated from time to time;

(fff) ~~(ggg)~~ “**Service Fees**” has the meaning set out in Section 4.1(a);

(ggg) ~~(hhh)~~ “**Special Voting Units**” means the special voting units of the REIT that represent voting rights in the REIT that accompany the Class B LP Units;

(hhh) ~~(iii)~~ “**Subsidiary Entity**” means the Limited Partnership or any new limited partnership Controlled by the REIT from time to time, a trust all of the units of which or a corporation all of the shares of which are owned directly or indirectly by the REIT or another entity that would be consolidated with the REIT under GAAP;

(iii) ~~(jjj)~~ “**Tax Act**” means the *Income Tax Act* (Canada);

(jjj) ~~(kkk)~~ “**Taxes**” means all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers' compensation premiums, together with any installments with respect thereto, and any interest, fines and penalties, in all cases imposed by any Governmental Authority in respect thereof;

(kkk) ~~(lll)~~ “**Unitholder**” means a Person who directly holds any Units; and

(lll) ~~(mmm)~~ “**Units**” means trust units in the capital of the REIT, excluding Special Voting Units unless the context otherwise requires.

## 1.2 General Construction

Any reference to any federal, provincial, local or foreign law shall be deemed also to refer to such law as amended or replaced and all rules and regulations promulgated thereunder, unless the context requires otherwise. Any reference to any agreement (including schedules, exhibits and other attachments thereto), including this Agreement, shall be deemed also to refer to such agreement as amended, restated or otherwise modified, unless the context requires otherwise. The words “include”, “includes” and “including” shall be deemed to be followed by “without limitation.” Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context requires otherwise. The words “this Agreement”, “herein”, “hereof”, “hereby”, “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. Where this Agreement states that a Party “will” or “shall” perform in some manner or otherwise act or omit to act, it means that such Party is legally obligated to do so in accordance with this Agreement. The captions, titles and headings included in this Agreement are for convenience only and do not affect this Agreement's construction or interpretation. Any

reference to an Article, Section or Schedule in this Agreement shall refer to an Article, Section or Schedule to, this Agreement, unless the context otherwise requires.

### 1.3 Currency

All references to currency in this Agreement shall be deemed to be references to Canadian dollars.

### 1.4 Schedules

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

Schedule "A" - Property Management Services

### 1.5 Time Periods

For this Agreement, time periods within or following which an act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends if that day is a Business Day or the next Business Day if the last day of the period does not fall on a Business Day.

### 1.6 Joint Draft

The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavours any Party because of the authorship of any provision of this Agreement.

### 1.7 Trustees in Representative Capacity

The REIT Trustees have entered into this Agreement in their capacity as trustees of the REIT under the Declaration of Trust and this Agreement has been executed and delivered on behalf of the REIT Trustees in such capacity, and, unless otherwise expressly provided herein, where any reference is made in this Agreement to the REIT as a Party to this Agreement or to any other agreement or to an act to be performed by or a covenant, representation or warranty given by the REIT such reference shall be construed and applied for all purposes as if it referred to the REIT Trustees in their respective capacity as trustees of the REIT under the Declaration of Trust.

## **ARTICLE 2 TERM**

### 2.1 Term

This Agreement shall commence on the date hereof and, unless terminated in accordance with the provisions hereof, shall continue for an initial term of five (5) years (the "**Initial Term**").

## 2.2 Renewal

Upon completion of the Initial Term or any subsequent Renewal Term, this Agreement shall automatically renew for a further period of five (5) years (each a “**Renewal Term**”) until terminated in accordance with the provisions hereof.

## ARTICLE 3 PROPERTY MANAGEMENT SERVICES

### 3.1 Engagement

The REIT hereby appoints Melcor, as an independent contractor, as of and from the Commencement Date, and Melcor accepts the appointment to provide services in accordance with this Agreement.

### 3.2 Property Management Services

Melcor agrees to provide to the REIT and its Subsidiary Entities those services (collectively, the “**Property Management Services**”) set forth in Schedule “A” attached hereto, subject to the overriding supervision of the REIT Trustees.

### 3.3 Additional Services

The REIT and Melcor may from time to time agree in writing on additional services which are to be provided to the REIT and/or its Subsidiary Entities by Melcor (“**Additional Services**”) for which Melcor shall be compensated on terms to be agreed upon between Melcor and the REIT prior to the provision of any such Additional Services.

### 3.4 Historical Disclosure

Melcor agrees that throughout the Initial Term and any Renewal Terms it will, subject to Applicable Law and agreements relating to the disclosure (if any) of such information, at the request of the REIT or as required to perform the obligations of Melcor hereunder, provide the REIT with access to all strategic and historical information relating to the Initial Properties.

### 3.5 Personnel

- (a) The Parties acknowledge and agree that, subject to Section 3.6(a), Melcor (together with its Affiliates) shall be responsible for performing the Property Management Services or any Additional Services primarily through its dedicated management team and employees (collectively “**Personnel**”).
- (b) Except as expressly provided herein, all costs relating to any Personnel (and personnel of third parties whom Melcor has retained pursuant to Section 3.6(a)), including employment, termination or severance costs, shall be the responsibility of Melcor. The withholding and payment of any amounts required to be withheld and paid to any Governmental Authority in respect of Personnel engaged or employed by Melcor shall be withheld and paid by Melcor.
- (c) The Parties acknowledge that the persons acting as the chief executive officer of the REIT, chief financial officer of the REIT and any other executive officers

provided by Melcor to the REIT in accordance with the Asset Management Agreement and this Agreement shall be permitted, in addition to providing his or her services to the REIT, to provide services to Melcor and/ or its Affiliates.

### 3.6 Subcontracting

- (a) Subject to Section 3.6(b), the Parties acknowledge and agree that Melcor shall have the ability and right from time to time to retain the services of third parties where it is appropriate to do so, provided that Melcor will at all times remain responsible for the provision of the Property Management Services and any Additional Services and that such third parties shall be subject to the standard of care of Melcor, as set out in Section 5.1.
- (b) Except as contemplated in any Budget, Melcor will be responsible for the costs of any third parties it retains in performing the Property Management Services or any Additional Services.

### 3.7 Books and Records

Melcor shall keep proper, separate and complete books, records and accounts in which full, true and correct entries in conformity with GAAP and all requirements of Applicable Law will be made of all dealings and transactions in relation to the Property Management Services and any Additional Services under this Agreement. Melcor shall permit the REIT and its representatives at reasonable times and intervals, and upon reasonable prior notice, to have access to and make copies of such books, records and accounts as they may reasonably require in respect of the Property Management Services and any Additional Services.

### 3.8 Furnish Information

- (a) Melcor shall make available to the REIT and its representatives such information, documentation and material relating to the performance of the Property Management Services and any Additional Services as and when the same may be reasonably requested in writing and otherwise give such co-operation as may be reasonably requested by the REIT or as may be necessary for the REIT's representatives to carry out their duties on behalf of the REIT.
- (b) Melcor shall, within a reasonable time of receipt, provide the REIT with copies of any material notices, claims or demands received by Melcor relating to the Investment Properties or the Property Management Services.

### 3.9 Cooperation of the REIT

Subject to Applicable Law and agreements relating to confidentiality of disclosure (if any), the REIT hereby authorizes Melcor to have full and complete access to the books, records and business premises and to whatever other information and material of the REIT and its Subsidiary Entities Melcor may reasonably consider necessary or desirable to discharge its duties hereunder. The REIT acknowledges that Melcor may in certain cases require the assistance and co-operation of the REIT and/ or its Subsidiary Entities in the performance of the duties of Melcor hereunder. In that regard, the REIT covenants and agrees to provide, or cause its Subsidiary Entities to provide, all



assistance and co-operation on a timely basis reasonably necessary to enable Melcor to comply with its obligations herein.

## ARTICLE 4 SERVICE FEES

### 4.1 Fee for Property Management Services

- (a) In consideration of providing the Property Management Services to the REIT, the REIT shall pay to Melcor the fees (collectively the “**Service Fees**”) set forth in Section 4.1(b) and Section 4.1(c).
- (b) The REIT shall pay to Melcor a monthly fee, payable in arrears on or about the fifteenth (15<sup>th</sup>) day of each month, equal to one-twelfth (1/12) of three percent (3%) of Gross Investment Property Revenue based on the monthly average of the Gross Investment Property Revenue as at the end of the immediately preceding fiscal quarter of the Limited Partnership, except for the purposes of the first fiscal quarter of the Limited Partnership following Closing where Gross Investment Property Revenue will be estimated by Melcor REIT GP; provided that such amount will be reconciled to actual figures once applicable annual financial statements of the Limited Partnership are available, with Melcor returning to the REIT any overpayment and the REIT paying to Melcor any underpayment on or before the fifteenth (15<sup>th</sup>) day following the completion of such financial statements.
- (c) ~~Subject to Section 4.1(d)~~ Effective January 1, 2022, the REIT shall pay to Melcor an upfront market fee (~~the~~ each a “**Melcor Lease Fee**”), payable on a transaction by transaction basis, ~~equal to the aggregate of the following:~~
  - ~~five percent (5%) of Aggregate Base Rent for New Leases for the first five (5) years of the initial lease term and two and one half percent (2 ½%) of Aggregate Base Rent for New Leases for the second five (5) years of the initial lease term (if applicable), provided that such fee shall be increased by fifty percent (50%) in the event that (A) Melcor lists an Investment Property with~~ but only for transactions in respect of which a third party leasing agent, ~~(B) such third party leasing agent cooperates with an outside agent, and (C) the applicable listing agreement with the third party leasing agent provides for an additional fee payable to the outside agent; and~~
  - ~~(i) two and one half percent (2 ½%) of Aggregate Rent for Lease Renewals and Expansions for the first five (5) years of the initial lease term~~ was not engaged. ~~(d) The Lease Fees shall be subject to review and adjustment annually by Melcor and the Independent Trustees to ensure that the~~ Melcor Lease Fee structure ~~represents~~ shall represent current market terms ~~to Melcor~~ in each particular market within which leasing services are provided to the REIT. The objective ~~of this annual review~~ is to set ~~the~~ each Melcor Leasing ~~Fees~~ Fee at no more, and no less, than an industry-standard rate in each particular market within which leasing services are provided by Melcor. In the event that Melcor and the Independent Trustees are unable to agree on ~~what the~~ a Melcor Lease ~~Fees should be~~ Fee for a particular transaction in a particular market (a “**Melcor**



**Lease Fee Dispute**”), such Melcor Lease Fee Dispute shall be settled by binding arbitration in accordance with the provisions of Section 10.1.

- (d) ~~(e)~~ No Service Fees shall be earned or payable in connection with the transactions occurring at or in connection with the Closing.
- (e) ~~(f)~~ The Service Fees shall be subject to review by Melcor and the Independent Trustees prior to: (i) May 1, 2023; and (ii) the end of each Renewal Date. In the event that Melcor and the Independent Trustees are unable to agree on current market fees for the Property Management Services and the Additional Services (a “**Dispute**”) by May 1, 2023 or the applicable Renewal Date, such Dispute, shall be settled by binding arbitration in accordance with the provisions of Section 10.1. In the event of a Dispute, the expiring Service Fees shall continue until such Dispute has been fully and finally determined in accordance with Section 10.1.

#### 4.2 Payment and Apportionment of Service Fees

- (a) The Service Fee shall be paid in full within the time periods contemplated by Section 4.1 without deduction, abatement or setoff.
- (b) Except as otherwise provided for in this Agreement or with the Approval of the REIT, Melcor shall not be entitled to any other compensation, reimbursement or payment for the Property Management Services.
- (c) Melcor shall apportion the Services Fees among the REIT and its Subsidiary Entities in a manner Approved by the REIT and shall issue its invoices to the REIT in accordance with such apportionment.
- (d) All amounts payable to Melcor pursuant to this Agreement shall be exclusive of any and all applicable goods and services tax, value-added tax, sales tax, use tax, stamp tax or similar Taxes applicable to such payments, including, without limitation, any HST or GST required to be paid thereon pursuant to the ETA and, unless the REIT or Melcor is exempt from such Taxes, Melcor shall be paid by the REIT or its Affiliates, as the case may be, in addition to the Service Fees and such other amounts payable to Melcor pursuant to this Agreement, all amounts of such Taxes collectible by Melcor with respect thereto. Melcor shall remit all amounts paid to it by the REIT or its Affiliates in respect of Taxes to the appropriate Governmental Authority, as applicable.
- (e) Any amount payable to Melcor hereunder and which is not remitted to Melcor when so due shall remain due (whether on demand or otherwise) and interest shall accrue on such overdue amounts (both before and after judgment) at a rate per annum equal to the prime rate charged by the REIT's principal bank plus four percent (4%) per annum from (and including) the date payment is due to (but excluding) the date payment is made.

#### 4.3 Expenses

- (a) On or before December 31 in any calendar year in which this Agreement is in force, Melcor shall prepare a budget for Approval by the REIT with respect to the

Property Management Services and any Additional Services to be performed in the upcoming calendar year (a “**Budget**”). Melcor shall be reimbursed by the REIT for all out-of-pocket costs and expenses (including but not limited to, costs and expenses of third party property managers and building operators) incurred by Melcor in connection with the performance of the Property Management Services and any Additional Services (the “**Expenses**”) provided such Expenses are in a category and amount included in the Approved Budget for the applicable calendar year in which such Expense was incurred or as otherwise Approved by the REIT. Expenses shall be paid by the REIT within thirty (30) days following receipt by the REIT of appropriate documentation evidencing the payment by Melcor of such Expenses and Approval thereof, if applicable, by the REIT. For greater certainty, it is acknowledged by Melcor that it is not intended that Melcor be reimbursed for any overhead costs of Melcor (including costs incurred for rent in respect of Melcor's or any Affiliate's own premises, office administrative costs and Personnel costs) other than: (i) employees designated as property managers for a specific Investment Property or Investment Properties; and (ii) employees who are on-site at a property.

- (b) Melcor shall keep appropriate records to document all Expenses, which records shall be made available for inspection by the REIT or its representatives upon request.

#### 4.4 Primacy

Notwithstanding anything contained herein, Melcor's right to provide the Property Management Services and thereby earn Service Fees with respect to any Investment Property co-owned or held in partnership by the REIT or its Affiliates with arm's length parties shall be subject firstly to the terms of the contractual arrangements with such third parties such that there shall be no duplication in fees paid by the REIT or its Affiliates.

## ARTICLE 5 COVENANTS AND AUTHORITY OF MELCOR

### 5.1 Covenants of Melcor

- (a) Melcor covenants and agrees that it will (i) exercise its responsibilities hereunder honestly, in good faith, carefully and diligently and in the best interests of the REIT and its Subsidiary Entities, (ii) exercise the degree of care, diligence, judgment and skill that would be exercised by a professional, prudent and competent person who is experienced in performing services substantially similar to the Property Management Services and any Additional Services, and (iii) will use such inspection, quality control and other procedures as Melcor deems necessary, acting reasonably, to ensure that its duties and obligations hereunder are performed in accordance with the conditions hereof.
- (b) Melcor covenants and agrees that it will (i) use qualified individuals with suitable training, experience and skill to perform the Property Management Services and any Additional Services, (ii) provide such administrative and other support to the Personnel as they may reasonably require to perform Melcor's duties hereunder, and (iii) dedicate the human, equipment and other resources which, in the

opinion of Melcor, acting reasonably, are necessary in order for Melcor to provide the Property Management Services and any Additional Services.

- (c) Melcor shall perform the Property Management Services and any Additional Services in a manner which is at all times consistent with assisting the REIT to carry on its business and affairs in compliance with the terms and conditions of the Declaration of Trust.
- (d) Melcor covenants and agrees that it will comply in all material respects with Applicable Law in the performance of the Property Management Services and any Additional Services.

## 5.2 Melcor Acknowledgement Concerning Constatng Documents

Melcor acknowledges that it has received a copy of the Declaration of Trust and the Limited Partnership Agreement and is familiar with, and understands, the duties and obligations of the respective parties thereto, including those duties of the REIT Trustees and Melcor REIT GP which are being delegated to Melcor under this Agreement.

## 5.3 Additional Information

The REIT acknowledges that Melcor's provision of the Property Management Services and any Additional Services as contemplated herein may have the incidental effect of providing Melcor with additional information in respect to or augmenting the value of properties in which Melcor or its Affiliates or Associates have an interest and the REIT agrees that neither Melcor nor its Affiliates or Associates shall be liable to account to the REIT or its Affiliates with respect to such activities or results; provided, however, that Melcor shall not, in making any use of any such information, do so in any manner that Melcor knew, or ought reasonably to have known, would cause or result in a breach of any confidentiality agreements to which the REIT is a party or is bound or would breach Melcor's obligations pursuant to Section 7.1.

## 5.4 Limit to Authority

Melcor acknowledges that it has no authority to act on behalf of the REIT or its Subsidiary Entities, except as explicitly provided under this Agreement or any other agreement between the Parties.

# ARTICLE 6 REPRESENTATIONS AND WARRANTIES

## 6.1 Representations and Warranties of Melcor

Melcor represents and warrants to the REIT that:

- (a) it is a corporation duly incorporated and existing pursuant to the laws of the Province of Alberta;
- (b) it has, and agrees that it will maintain, all requisite power, authority, licenses, permits, consents and other third party approvals and approvals of Governmental Authorities to execute, deliver and perform its obligations which

arise pursuant to or in respect of this Agreement and has taken necessary action to authorize the entering into and performance by it of this Agreement;

- (c) the performance by Melcor of its obligations hereunder does not, and will not, violate any agreements or obligations pursuant to which Melcor is bound;
- (d) this Agreement constitutes a legal, valid and binding obligation of Melcor, enforceable against Melcor in accordance with its terms, subject only to applicable bankruptcy, insolvency, re-organization, moratorium or other similar laws affecting creditors' rights generally and to equitable principles of general application;
- (e) Melcor is, and shall not cease to be, a resident of Canada for purposes of the Tax Act; and
- (f) Melcor is, and shall not cease to be, a registrant for the purposes of the ETA and its registration number has been provided to the REIT.

## 6.2 Representations and Warranties of the REIT

The REIT represents and warrants to Melcor that:

- (a) it is an unincorporated, open-ended limited purpose trust established under the laws of the Province of Alberta pursuant to the Declaration of Trust and has not been terminated;
- (b) it has, and agrees it will maintain, all requisite power and authority to execute, deliver and perform its obligations which arise pursuant to or in respect of this Agreement and has taken necessary action to authorize the entering into and performance by it of this Agreement;
- (c) the performance by the REIT of its obligations hereunder does not, and will not, violate any agreements or obligations pursuant to which the REIT is bound; and
- (d) this Agreement constitutes a legal, valid and binding obligation of the REIT, enforceable against the REIT in accordance with its terms, subject only to applicable bankruptcy, insolvency, re-organization, moratorium or other similar laws affecting creditors' rights generally and to equitable principles of general application.

## **ARTICLE 7 CONFIDENTIALITY, COMPETITION AND NON-SOLICITATION**

### 7.1 Confidentiality

Melcor shall not, without the prior written consent of the REIT, disclose to any third party any information about the REIT, Subsidiary Entities or their Affiliates (or any of them) acquired or developed in connection with the performance of the Property Management Services and any Additional Services under this Agreement except that consent shall not be required to the following disclosure:

- (a) information disclosed as required by Applicable Law or as may be required by the regulations or policies of any Governmental Authority;
- (b) information disclosed as necessary for the purposes of any acquisitions, debt or equity financing undertaken by the REIT or any of its Affiliates; or
- (c) information disclosed that Melcor acting reasonably deems to be necessary to be disclosed, on a confidential basis, for the performance of its duties and obligations under this Agreement, including disclosure of information to Affiliates, consultants and other third parties engaged by or assisting Melcor in accordance with the terms of this Agreement in order to carry out the purposes of this Agreement.

The provisions of this Section 7.1 shall survive the termination of this Agreement.

## 7.2 Non-Solicitation of Melcor's Employees

- (a) Upon the termination of this Agreement pursuant to Section 9.2(a), the REIT shall not, without the prior written consent of Melcor, and the REIT shall cause its Affiliates not to, at any time within the eighteen (18) month period following the effective date of termination of this Agreement, directly or indirectly, solicit for employment and/or hire as an employee of the REIT or its Affiliates, any Personnel.
- (b) Upon the termination of this Agreement for any reason, the REIT shall not, without the prior written consent of Melcor, and the REIT shall cause its Affiliates not to, at any time within the eighteen (18) month period following the effective date of termination of this Agreement, directly or indirectly, solicit for employment and/or hire as an employee of the REIT or any of its Affiliates any Personnel; provided that, except in the case of a termination pursuant to Section 9.2(a), the REIT and its Affiliates shall be entitled to solicit for employment and/or hire as an employee any Personnel for whom the REIT would have a severance obligation pursuant to the terms of this Agreement.
- (c) For greater certainty, this Section 7.2 shall not apply to the hiring or engagement of Personnel who respond to an advertisement by the REIT or its Affiliates available to the general public.
- (d) The provisions of this Section 7.2 shall survive the termination of this Agreement.

## 7.3 Other Activities of Melcor

The REIT acknowledges that Melcor and/or its Affiliates and/or its Associates are engaged in or may become engaged in a variety of other businesses. The REIT acknowledges and, subject to the terms of the Development and Opportunities Agreement, the Restrictive Covenant Agreement and the Asset Management Agreement, consents to any and all such activities and, subject to the terms of the Development and Opportunities Agreement, the Restrictive Covenant Agreement and the Asset Management Agreement, agrees that nothing herein shall prevent Melcor or any of its Affiliates or Associates or any of their respective officers, directors or employees from having other business interests, even though such business interests

may be similar to or competitive with the affairs of the REIT or any of their Affiliates and, subject to the terms of the Development and Opportunities Agreement, the Restrictive Covenant Agreement and the Asset Management Agreement, Melcor and its Affiliates and Associates shall not be obligated to offer any business opportunities to the REIT or any of its Affiliates. Melcor and its Affiliates and Associates and their respective directors, officers and employees shall have the right independently to engage in and receive the full benefits from business activities whether or not similar to or competitive with the affairs of the REIT or their Affiliates, without consulting the REIT, subject to the terms of the Development and Opportunities Agreement, the Restrictive Covenant Agreement and the Asset Management Agreement.

#### 7.4 Remedies

The Parties acknowledge that a breach by a Party of the covenants contained in Section 7.1 and Section 7.2 may result in damages to the Parties such that a Party shall not be adequately compensated for such damages by monetary award alone. Accordingly, the Parties agree that in the event of any such breach, in addition to any other remedies available at law or otherwise, the affected Party shall be entitled as a matter of right to apply to a court of competent jurisdiction for, and obtain, relief by way of injunction, restraining order, decree or otherwise as may be appropriate to ensure compliance by the other Parties with such covenants. Any remedy expressly set out in this Agreement shall be in addition to and not inclusive of or dependent upon the exercise of any other remedy available at law or otherwise.

### ARTICLE 8 INDEMNIFICATION AND LIMITATION ON LIABILITY

#### 8.1 Indemnification of the REIT

(a) Subject to Section 8.5, Melcor shall indemnify and hold harmless the REIT and its Affiliates and their respective general partners, trustees, officers, directors, employees and representatives, as applicable (the “**REIT Indemnified Parties**”) from and against any and all Damages arising out of or resulting from or connected with:

- (i) any fraudulent, negligent or unlawful act or omission on the part of Melcor or its Affiliates and their respective officers, directors, Personnel, representatives or agents in performing its obligations hereunder;
- (ii) any inaccuracy or misrepresentation of a representation or warranty set forth in Section 6.1; and
- (iii) any breach or non-performance by Melcor of any of its material obligations hereunder;

in each case except to the extent such Damages are caused by:

- (iv) any fraudulent, negligent or unlawful act or omission on the part of any of the REIT Indemnified Parties;
- (v) a breach or non-performance by any of the REIT Indemnified Parties of any of the REIT's obligations hereunder;

- (vi) any action taken by Melcor pursuant to the directions or written instructions of any of the REIT Indemnified Parties; or
  - (vii) any inaccuracy of any representation or warranty of the REIT contained in this Agreement.
- (b) The provisions of this Section 8.1 shall survive the termination of this Agreement.

## 8.2 Indemnification of Melcor

- (a) The REIT shall indemnify and hold harmless Melcor, its officers, directors, employees and agents, as applicable (the “**Melcor Indemnified Parties**”) from and against any and all Damages arising or resulting from or connected with:
- (i) any fraudulent, negligent or unlawful act or omission of the REIT or its Affiliates and their respective general partners, trustees, officers, directors, employees and representatives in respect of its obligations hereunder;
  - (ii) any breach or non-performance by the REIT of any of its material obligations hereunder;
  - (iii) any action taken by Melcor pursuant to the directions or written instructions of any of the REIT Indemnified Parties; and
  - (iv) any injury to any Personnel or other Person or damage to personal property in or about any Property by reason of any cause whatsoever;
- in each case except to the extent such Damages are caused by:
- (v) any fraudulent, negligent or unlawful act on the part of Melcor Indemnified Parties;
  - (vi) any action taken by Melcor Indemnified Parties outside the scope of Melcor's authority pursuant to this Agreement;
  - (vii) any breach or non-performance by any of Melcor Indemnified Parties of any of Melcor's obligations hereunder; or
  - (viii) any inaccuracy of any representation or warranty of Melcor contained in this Agreement.
- (b) The provisions of this Section 8.2 shall survive the termination of this Agreement.

## 8.3 Indemnification in Respect of Employees on Termination of this Agreement

- (a) In addition to any other rights or remedies available to Melcor at law, equity or otherwise:
- (i) if this Agreement is terminated for any reason other than pursuant to Section 9.1(a), Section 9.2(b) or Section 9.2(c), the REIT shall indemnify



and save harmless Melcor from and against any and all Melcor Employee Severance Costs; and

- (ii) if this Agreement is terminated for any reason and the REIT or any of its Affiliates employs any Personnel within twelve (12) months of the effective date of such termination, the REIT or such Affiliate shall indemnify and save harmless Melcor and its Affiliates from and against and reimburse Melcor for any and all severance and termination payments and costs actually paid or payable by Melcor or its Affiliates in respect of such Personnel.

- (b) The provisions of this Section 8.3 shall survive the termination of this Agreement.

#### 8.4 Cost Limitation in Respect of REIT's Liability for Severance and Termination

The REIT shall not be liable to indemnify Melcor or its Affiliates for any severance or termination payments and costs in respect of Melcor's or its Affiliates' employees except as explicitly provided herein.

#### 8.5 Exculpatory Clause

The REIT acknowledges that so long as Melcor has acted in accordance with the standard of care set out in Section 5.1, Melcor shall not be liable, answerable or accountable for any consequences resulting from, incidental to or relating to the provision of the Property Management Services and any Additional Services hereunder by Melcor, including any exercise or refusal to exercise a discretion, any mistake or error of judgment or any act or omission believed by Melcor to be within the scope of authority conferred on it by this Agreement, unless such loss or damage resulted from:

- (a) any fraudulent, negligent or unlawful act or omission on the part of Melcor in performing its obligations hereunder; or
- (b) any breach or non-performance by Melcor of any of Melcor's material obligations hereunder.

#### 8.6 Limitation of Liability for REIT

- (a) The Parties acknowledge that this Agreement shall be conclusively taken to have been executed by, or by an officer of the REIT on behalf of, the REIT Trustees only in their capacity as trustees under the Declaration of Trust. The Parties hereby disclaim any liability upon and waive any claim against Unitholders and any annuitants or beneficiaries of a trust governed by a registered retirement savings plan, registered retirement income fund, registered education savings plan or deferred profit sharing plan or under plans of which Unitholders act as trustee or carrier and the obligations created hereunder are not personally binding upon, nor shall resort be had to, nor shall recourse or satisfaction be sought from, the private property of any REIT Trustee or any Unitholders or such annuitant or beneficiary. Melcor expressly agrees that recourse under this Agreement shall be limited to the property, assets, rights and interests held by or on behalf of the REIT. It is agreed that the benefit of this provision is restricted to the REIT Trustees and officers, each Unitholder and such annuitants or



beneficiaries and, solely for that purpose, the undersigned signing officer of the REIT has entered into this provision as agent and trustee for and on behalf of the REIT Trustees, each Unitholder and each such annuitant or beneficiary.

- (b) The provisions of this Section 8.6 shall survive the termination of this Agreement.

## ARTICLE 9 TERMINATION

### 9.1 Termination Rights of the REIT

- (a) The REIT may terminate this Agreement immediately upon the occurrence of an Event of Default by Melcor.
- (b) The REIT may terminate this Agreement at the end of the Initial Term or any Renewal Term on ninety (90) days' prior written notice to Melcor (or payment in lieu thereof calculated based on the Service Fees payable to Melcor hereunder over the ninety days immediately preceding such termination) if a Majority of the Independent Trustees determine that Melcor has not been meeting its obligations under the Property Management Services.
- (c) The REIT may terminate this Agreement upon a Change of Control of Melcor effective on the date of such Change of Control of Melcor.
- (d) Upon the REIT achieving a Gross Book Value of \$1,150,000,000, if a majority of the Independent Trustees determine that it is in the best interests of the REIT to internalize the Property Management Services, then the REIT may terminate this Agreement on ninety (90) days' prior written notice to Melcor (or payment in lieu thereof calculated based on the Service Fees payable to Melcor hereunder over the ninety days immediately preceding such termination).
- (e) If a majority of the Independent Trustees (i) determine that it is in the best interests of the REIT to internalize the Property Management Services or (ii) are not satisfied with the performance by Melcor of its duties hereunder, in each case as evidence by a resolution of a majority of the Independent Trustees, then the REIT may terminate this Agreement on three hundred sixty five (365) days' prior written notice to Melcor (or payment in lieu thereof calculated based on the Service Fees payable to Melcor hereunder over the three hundred sixty five days immediately preceding such termination).

### 9.2 Termination Rights of Melcor

- (a) Melcor may terminate this Agreement immediately upon the occurrence of an Event of Default by the REIT.
- (b) Melcor may terminate this Agreement upon one year's prior notice to the REIT after ~~the date which is ten (10) years from the Closing Date~~ May 1, 2023.
- (c) Upon a Change of Control of the REIT and upon Melcor terminating this Agreement within the twelve (12) months following such Change of Control of the REIT (which it shall be entitled to do), the REIT shall pay Melcor an amount equal to twelve (12) months of Service Fees to be calculated based on the Service Fees paid to Melcor hereunder over the twelve (12) months immediately

preceding such termination, provided that Melcor will not be entitled to any reimbursement for severance costs, termination costs or payments incurred by it, except in respect of any Personnel employed by the REIT or its Affiliates within the twelve (12) months following the effective date of such termination and then only in respect of the period after Closing that each such employee has worked on REIT matters and based on the proportion of each such employee's services attributable to REIT matters.-

### 9.3 Return of Records

Upon termination of this Agreement for any reason, Melcor, at the request of the REIT, shall forthwith deliver to the REIT, or as the REIT may direct, a full and final accounting and all original records, documents and books of account relating to the Property Management Services and any Additional Services provided hereunder (other than proprietary systems owned by Melcor, provided that the REIT shall be provided reasonable access to such proprietary systems for a period of ninety (90) days following the effective date of termination), which are then in the possession or control of Melcor or its Affiliates provided, however, that Melcor may retain copies of such records, documents and books of account for its own purposes. Where such data is in electronic form, it shall be made available in useable electronic format.

### 9.4 Final Balance

Upon termination of this Agreement for any reason, the REIT shall pay to Melcor all earned and unpaid amounts due to Melcor hereunder up to (and including) the date of termination.

### 9.5 Assumption of Contracts Upon Termination

Upon termination of this Agreement for any reason, the REIT or any of its Affiliates, as applicable, shall assume all contracts entered into by Melcor relating to the Property Management Services and any Additional Services provided hereunder, if such contracts have been entered into in accordance with the provisions of this Agreement, and indemnify Melcor from and after the effective date of termination of this Agreement against any liability by reason of anything done or required to be done under any such contracts unless such liability results from the fraud, wilful misconduct or gross negligence of Melcor or any act or omission of Melcor which constitutes a breach of this Agreement.

### 9.6 Orderly Transition Upon Termination or Notice of Termination

- (a) Upon termination of this Agreement for any reason, Melcor shall, at the expense of the REIT, co-operate and work diligently with the REIT in effecting the transition of the Property Management Services and any Additional Services to a new service provider or the REIT itself, as the case may be, in an orderly manner as soon as reasonably practicable.
- (b) Upon the delivery of a notice of termination of this Agreement to Melcor or the REIT, as applicable, (i) the Parties shall work diligently to prepare and settle a transition plan within thirty (30) days of the receipt of such notice of termination, with the objective of such transition plan being to facilitate an efficient transition

of the Property Management Services and any Additional Services as soon as reasonably practicable.

## ARTICLE 10 ARBITRATION

### 10.1 Arbitration

In the event of a Dispute, and upon written notice by either Melcor or the Independent Trustees to the other, such Dispute shall be finally settled by arbitration in accordance with the provisions of the *Arbitration Act* (Alberta), based upon the following:

- (a) the arbitrator shall be a person knowledgeable in property and asset management, appointed by mutual agreement of Melcor and the Independent Trustees, or in the event of failure to agree within fifteen (15) days following delivery of the written notice to arbitrate, each of Melcor and the Independent Trustees may apply to a judge of a court of competent jurisdiction in Alberta to appoint an arbitrator. In all cases, the arbitrator shall be qualified by education and training to pass upon the particular matter to be decided;
- (b) the arbitrator shall be instructed that time is of the essence in the arbitration proceeding and, in any event, the arbitration award must be made within thirty (30) days of the submission of the Dispute to arbitration;
- (c) after written notice is given to refer any Dispute to arbitration, Melcor and the Independent Trustees shall meet within fifteen (15) days of delivery of the notice and shall negotiate in good faith any changes in these arbitration provisions or the rules of arbitration which are herein adopted, in an effort to expedite the process;
- (d) the arbitration shall take place in Edmonton, Alberta or any other place mutually agreed to by Melcor and the REIT Trustees;
- (e) the arbitration award shall be given in writing and shall be final and binding on Melcor and the Independent Trustees, not subject to any appeal, and shall deal with the question of costs of arbitration and all related matters;
- (f) judgment upon any award may be entered in any court having jurisdiction or application may be made to the court for a judicial recognition of the award or an order of enforcement, as the case may be;
- (g) all Disputes referred to arbitration shall be governed by the substantive law of Alberta; and
- (h) except as required by Applicable Law, Melcor and the Independent Trustees agree that the arbitration shall be kept confidential and that the existence of the proceeding and any element of it (including any pleadings, briefs or other documents submitted or exchanged, any testimony or other oral submissions and any awards) shall not be disclosed beyond the arbitrator, Melcor and the Independent Trustees, their counsel and any person necessary to the conduct of the proceeding, except as may lawfully be required in judicial proceedings relating to the arbitration or otherwise.

## ARTICLE 11 GENERAL

### 11.1 No Partnership

Melcor and the REIT acknowledge that they are independent contractors and that it is not intended by entering into this Agreement to form a partnership of any nature whatsoever between them, nor is it intended by carrying out the terms hereof that they should be characterized as carrying on business in partnership. Each of the Parties shall not take or omit to take any action whatsoever which might reasonably result in any Person believing that the Parties are carrying on business in partnership and each of them shall cooperate to take all steps necessary and desirable to avoid the creation of such an impression of partnership.

### 11.2 Approval

Wherever the provisions of this Agreement require an approval, consent or agreement (individually or collectively referred to as an “**Approval**” or “**Approved**”) unless the contrary is expressed herein:

- (a) the Party whose Approval is required shall, within ten (10) Business Days of receipt of a written request for Approval accompanied by reasonable detail, if the circumstances require, notify the requesting Party, in writing, either that it approves or that it withholds its approval setting forth, in reasonable detail, its reasons for withholding;
- (b) the Party requesting the Approval shall consult with the Party whose Approval is required and provide any information concerning the same requested by the Party whose Approval is required; and
- (c) if the notification referred to in (a) above is not given within the applicable period of time, the Party whose Approval is requested shall be deemed conclusively to have given its Approval in writing.

### 11.3 Notices

All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed conclusively to have been given on the date of delivery or date sent by facsimile or other means of prepaid, transmitted or recorded communications or, if mailed, five days from the date of mailing. If any such notice or communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities, such notice or communication shall be deemed to have been received forty eight (48) hours after 12:01 a.m. (Edmonton time) on the day following the resumption of normal mail service, provided that during the period that regular mail service shall be interrupted any notice or other communication shall be given by personal delivery or by facsimile or other means of prepaid, transmitted or recorded communication. Such notices, demands and other communications shall be delivered to the Parties at the respective addresses indicated below:

- (a) the REIT:

c/o 900, 10310 Jasper Avenue  
Edmonton, Alberta T5J 3Y8

Attention: Chief Executive Officer

(b) Melcor:  
900, 10310 Jasper Avenue  
Edmonton, Alberta, T5J 3Y8

Attention: Chief Executive Officer

#### 11.4 Waiver

No waiver of any provision of this Agreement shall be binding unless it is in writing. No indulgence or forbearance by a Party shall constitute a waiver of such Party's right to insist on performance in full and in a timely manner of all covenants in this Agreement. Waiver of any provision shall not be deemed to waive the same provision thereafter, or any other provision of this Agreement at any time.

#### 11.5 Further Assurances

Each Party shall act in good faith in performing its obligations and exercising its rights herein and shall promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Party may reasonably require from time to time for the purpose of giving effect to this Agreement and shall use reasonable commercial efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

#### 11.6 Entire Agreement

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether oral or written, of the Parties pertaining thereto, [including the Original Property Management Agreement](#). There are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth in this Agreement.

#### 11.7 Assignment

Subject to the right of Melcor to subcontract services in accordance with Section 3.6 hereof, neither this Agreement nor any of the rights and obligations arising from it shall be assignable in whole or in part by any Party, except with the prior written approval of the other Party which approval shall not be unreasonably withheld. Notwithstanding the preceding sentence, no consent is required for a Party to assign this Agreement to an Affiliate so long as such Person remains an Affiliate.

#### 11.8 Successors and Assigns

All of the terms and provisions of this Agreement shall be binding upon the Parties hereto and their respective permitted successors and assigns.

#### 11.9 Time of the Essence

Time is of the essence to every provision of this Agreement. Extension, waiver or variation of any provision of this Agreement shall not be deemed to affect this provision and there shall be no implied waiver of this provision.

#### 11.10 Amendments

This Agreement may not be modified or amended except by written agreement of the Parties.

#### 11.11 Severability

If any covenant, obligation or agreement of this Agreement, or the application thereof, to any Person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each covenant, obligation and agreement of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

#### 11.12 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable in such province and the Parties irrevocably attorn to the non-exclusive jurisdiction of the courts of such province.

#### 11.13 Counterparts

This Agreement may be executed in any number of counterparts, and delivered via facsimile or by electronic transmission in portable document format (PDF), and each such counterpart so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument.

#### 11.14 Bryan & Company LLP Acting for More Than One Party

Each of the Parties has been advised and acknowledges that Bryan & Company LLP are acting as counsel to and jointly representing each Party and, in this role, information disclosed to Bryan & Company LLP by one Party will not be kept confidential and will be disclosed to all Parties and each of the Parties consents to Bryan & Company LLP so acting. In addition, should a conflict arise between any of the Parties, Bryan & Company LLP may not be able to continue to act for any of such Parties.

**THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.**

IN WITNESS WHEREOF the Parties have duly executed this Agreement on the date written on the first page of this Agreement.

**MELCOR DEVELOPMENTS LTD.**

Per: \_\_\_\_\_

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

Title: \_\_\_\_\_

**MELCOR REAL ESTATE INVESTMENT TRUST**

Per: \_\_\_\_\_

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

Title: \_\_\_\_\_

## **SCHEDULE “A” SERVICES**

Subject to the oversight of the REIT Trustees, and as instructed by the REIT from time to time, the Property Management Services shall include:

- (a) providing and operating the REIT’s head office, including providing the office space, equipment, supplies, support services and administrative, clerical and secretarial personnel incidental thereto;
- (b) managing and administering the day-to-day operations of the REIT and its Subsidiary Entities;
- (c) maintaining proper, separate and complete books and financial records of the Investment Properties in which full, true and correct entries in conformity with GAAP will be made, and preparing reports, tax returns and other disclosure documents based on the maintenance of such books and records;
- (d) reviewing property tax assessments and making recommendations in respect thereof and taking the necessary steps to appeal or contest such assessments as appropriate;
- (e) conducting the day-to-day relations with respect to the Investment Properties with third parties, including tenants, suppliers, brokers, consultants, advisors, accountants, lawyers, municipal tax authorities, insurers and appraisers;
- (f) supervising Investment Property expansions, capital projects and development projects and providing periodic reports, as requested by the REIT, in respect thereof;
- (g) managing and operating the Investment Properties, including inspecting the Investment Properties, negotiating contracts, ensuring reasonable security, handling tenant requests and negotiations, arranging for such improvements and repairs as may be required and purchasing all materials and services, arranging for utilities and fixed price contracts in respect thereof, and incurring such expenses (with certain exceptions), as it deems necessary in connection therewith, all in accordance with the Budget;
- (h) collecting all rents and other charges and payments of costs and expenses related to the management of the Investment Properties, including arrears of rents by legal action or otherwise;
- (i) reporting on the financial condition of the Investment Properties and preparing budgets and leasing and marketing plans with respect thereto (the “**Leasing and Marketing Plans**”) for the approval of the REIT on a periodic basis, as requested by the REIT;
- (j) supervising and conducting all leasing and operations in respect of the Investment Properties, including negotiating and executing leases in accordance with an approved Leasing and Marketing Plan and overseeing tenant move-ins and move-outs on a periodic basis;



- (k) preparing all reports reasonably requested by the REIT and its Subsidiary Entities, including operational reporting such as cash flow by property and by asset type; reporting on development costs; and executive summaries by asset type describing each of the Investment Properties;
- (l) managing regulatory compliance in respect of the Investment Properties, including making all required filings;
- (m) assisting the REIT with the preparation of all documents, reports, data and analysis required by the REIT for its filings and documents necessary for the REIT's continuous disclosure requirements pursuant to applicable stock exchange rules and securities laws; and
- (n) supervising the activities of any third party managers subcontracted by Melcor in accordance with this Agreement.

## SCHEDULE C DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES

The corporate governance practices described below explain how the REIT is meeting the guidelines of security regulators in Canada, including National Policy 58-201 – *Corporate Governance Guidelines* and National Instrument 58-101 – *Disclosure of Corporate Governance Practices*.

| Governance Guideline   | Comments  |
|--|---|
| <b>Board of Trustees</b>   |   |
| <i>Disclose whether or not a majority of Trustees are independent.</i>   | Four of the REIT's six Trustees (67%) are independent. The independent Trustees are:<br>Larry Pollock (Lead Trustee)<br>Carolyn Graham ICD.D<br>Richard Kirby ICD.<br>Bernie Kollman ICD.D  |
| <i>Disclose the identity of Trustees who are not independent, and describe the basis for that determination.</i>   | The following Trustees are not considered independent as defined in National Instrument 52-110 Section 1.4 <i>Audit Committees</i> :<br><ul style="list-style-type: none"><li>Andrew Melton – CEO of Melcor REIT and nominee of Melcor Developments</li><li>Ralph Young – Chair and nominee of Melcor Developments</li></ul> Melcor Developments Ltd., through an affiliate, holds an approximate 55.4% effective interest in the REIT through ownership of 16,125,147 Class B LP units of the Melcor REIT Limited Partnership and a corresponding number of special voting units of the REIT.  |
| <i>If a Trustee is presently a Trustee/director of any other reporting issuer (or the equivalent) in a jurisdiction or a foreign jurisdiction, identify both the Trustee and the other issuer.</i>   | All Trustee/directorships with other public entities for each Trustee are disclosed on page 12 of this circular.  |
| <i>Disclose whether or not the independent Trustees hold regularly scheduled meetings at which non-independent Trustees and members of management are not in attendance.</i>   | The independent Trustees hold <i>in camera</i> sessions at most Board and in person committee meetings. The Audit Committee also holds <i>in camera</i> sessions with the external auditors and management.<br><b>FY2021 In Camera Sessions:</b><br>Board:.....5/5<br>Audit Committee:.....4/4<br>Compensation and Governance:.....1/1  |
| <i>Disclose whether the Chair of the Board of Trustees is an independent Trustee. If the Board of Trustees has a Chair or lead Trustee who is an independent Trustee, disclose the identity of the independent Chair or lead Trustee, and describe his or her role and responsibilities.</i> | The Chair of the Board of Trustees is Mr. Ralph Young who is not an independent Trustee. The Board appointed Mr. Larry Pollock as the lead Trustee. The role and responsibilities of the lead Trustee are as follows:<br><ul style="list-style-type: none"><li>act as Chair to the Governance Committee;</li><li>Chair meetings of the Board in the absence of the Chair;</li><li>establish, in consultation with the Chair and the Governance Committee, procedures to govern the Board's work;</li><li>in concert with the Chair, setting the agenda for Board meetings, based on input from Trustees and, when applicable, organizing pre-meeting consultations with the Board regarding same;</li><li>in concert with the Chair and CEO, ensuring the appropriate flow of information to the Board and reviewing adequacy and timing of documentary materials in support of management's proposals;</li><li>develop the agenda for the <i>in camera</i> sessions of the Board (i.e. without management or Melcor representatives present), with such sessions to be held at least two (2) times each year, or as required or deemed necessary, and to Chair such sessions;</li><li>as requested by the Board, act as a liaison between the REIT's management and the Board;</li><li>ensure that the Governance Committee:<ul style="list-style-type: none"><li>evaluates the operation and effectiveness of the Board annually;</li><li>works with the Chair to ensure planning for committee member and committee Chair succession;</li></ul></li><li>consider any other appropriate structures and procedures to ensure that the Board can function independently of management; and</li><li>undertake the lead on any other corporate governance matters that the Board may request from time to time.</li></ul> |

| Governance Guideline  |   | Comments                    |       |           |                     |
|---|---|-----------------------------|-------|-----------|---------------------|
| Disclose the attendance record of each Trustee for all meetings of the Board of Trustees held since the beginning of the issuer's most recently completed financial year. |   | Trustee                     | Board | Committee | % of Total Meetings |
|   |   | Carolyn Graham              | 5/5   | 5/5       | 100 %               |
|   |   | Richard Kirby               | 5/5   | 5/5       | 100 %               |
|   |   | Bernie Kollman <sup>1</sup> | 1/1   | –         | 100 %               |
|   |   | Andrew Melton               | 5/5   | –         | 100 %               |
|   |   | Larry Pollock               | 5/5   | 5/5       | 100 %               |
|   |   | Ralph Young                 | 5/5   | –         | 100 %               |
| 1. Ms. Kollman joined the board on December 9, 2021.  |   |                             |       |           |                     |
| <b>Board of Trustees' Mandate</b>   |   |                             |       |           |                     |
| Disclose the text of the Board of Trustees' mandate.  | The Board has adopted a mandate (see Appendix A) which, amongst other matters, sets out the Board's principal responsibilities which are: <ul style="list-style-type: none"><li>• adoption of a corporate strategic planning process;</li><li>• monitoring tactical progress;</li><li>• managing risks and protecting unitholder value;</li><li>• succession planning including appointing, developing and monitoring executives;</li><li>• internal corporate controls and management information systems;</li><li>• reviewing and approving material transactions not in the ordinary course of business;</li><li>• monitoring effectiveness of Trustees; and</li><li>• knowledge and understanding of the business and maintaining high levels of integrity in business conduct.</li></ul> |                             |       |           |                     |
| <b>Position Descriptions</b>  |   |                             |       |           |                     |
| Disclose whether or not the Board of Trustees has developed written position descriptions for the Chair and the Chair of each committee of the Board of Trustees.         | The Board of Trustees has developed written position descriptions for the Chair, lead Trustee, and the Chair of each Board committee.<br><br>See Appendix D: Position Descriptions in this circular & Appendix B to the 2021 Annual Information Form, filed on <a href="http://www.sedar.com">www.sedar.com</a> and incorporated by reference in this circular.   |                             |       |           |                     |
| Disclose whether or not the Board of Trustees has developed a written position description for the CEO.   | The Board of Trustees has developed and approved a written position description for the CEO.<br><br>See Appendix D: Position Descriptions   |                             |       |           |                     |
| <b>Orientation &amp; Continuing Education</b>   |   |                             |       |           |                     |
| Briefly describe what measures the Board of Trustees takes to orient new Trustees regarding:  | In 2021, board orientation was conducted for new Trustee Bernie Kollman. Board orientation materials are available to all Trustees at any time via the secure Board Resource Centre.  |                             |       |           |                     |
| (a) the role of the Board, its committees and its Trustees.   | Trustees have access to a secure Resource Centre that contains a Board Handbook, including mandates for the board and committees which outline the REIT's expectations for Trustee roles and responsibilities. The Resource Centre also contains governance related resources.  |                             |       |           |                     |
| (b) the nature and operation of the issuer's business.  | Appropriate senior personnel provide briefing sessions to help Trustees better understand the REIT's strategy and business operations.<br><br>Senior managers make frequent presentations to the Board on a variety of business issues and strategies. In addition, external resources occasionally present. Trustees also participate on tours from time-to-time with local management. This provides an opportunity to meet with employees and learn more about the REIT's business, development activities and asset holdings.   |                             |       |           |                     |
| Briefly describe what measures the Board takes to provide continuing education for its Trustees.  | Subject to Board approval, Trustees may enroll in professional development courses at the REIT's expense. No Trustees were enrolled in professional development courses at the REIT's expense in 2021.  |                             |       |           |                     |
| <b>Ethical Business Conduct</b>   |   |                             |       |           |                     |
| Disclose whether or not the Board of Trustees has adopted a written code for the Trustees, officers and employees. If the Board of Trustees has adopted a written code:   | The REIT has a Business Code of Conduct that is applicable to all Trustees, officers and employees. We note that the REIT has no employees.   |                             |       |           |                     |
| (a) disclose how a person or company may obtain a copy of the code  | The REIT's Business Code of Conduct is available on our website at <a href="http://www.melcorREIT.ca">www.melcorREIT.ca</a> and on SEDAR at <a href="http://www.sedar.com">www.sedar.com</a> .<br><br>It may also be mailed on request (see Additional Information, page 19).   |                             |       |           |                     |
| (b) describe how the Board of Trustees monitors compliance with its code  | All new Trustees are required to review and confirm compliance with the REIT's policies, including the Business Code of Conduct, prior to putting their names forward for election to the board.<br><br>Trustees are also required to review and confirm compliance annually.   |                             |       |           |                     |
| (c) provide a cross-reference to any material change report that pertains to any conduct of a Trustee or executive officer that constitutes a departure from the code     | The Board has not granted any waiver of the Business Code of Conduct nor has a material change report been required or filed pertaining to the conduct of a Trustee or executive officer.   |                             |       |           |                     |

| Governance Guideline   | Comments  |
|--|---|
| <i>Describe any steps the Board of Trustees takes to ensure Trustees exercise independent judgment in considering transactions and agreements in respect of which a Trustee or executive officer has a material interest.</i>                                    | The REIT's Business Code of Conduct outlines its conflict of interest guidelines.<br><br>If a Trustee has a material interest in a specific topic, they must excuse themselves to permit in camera discussions amongst the other Trustees and must abstain from voting upon such topic. Care is taken to ensure all Trustee conflicts are disclosed in a timely manner and documented in the meeting minutes.   |
| <i>Describe any other steps the Board of Trustees takes to encourage and promote a culture of ethical business conduct.</i>  | Ethical business conduct is a constant focus of the Board. Board members are encouraged to interact with employees and members of the management team. The Board encourages senior management to promote ethical conduct among all employees.   |
| <b>Nomination of Trustees</b>  |   |
| <i>Describe the process by which the Board of Trustees identifies new candidates nomination.</i>   | The Corporate Governance & Compensation Committee is responsible for identifying new candidates for recommendation to the Board, other than Melcor Developments nominees. The Committee considers the composition of the Board and prepares recommendations for independent Trustee nominees. This process is performed in consultation with the Chair, CEO and Trustees.   |
| <i>Disclose whether the Board of Trustees has a nominating committee composed entirely of independent Trustees.</i>  | The Corporate Governance & Compensation Committee is responsible for Trustee nominations. All members of the Corporate Governance & Compensation Committee are independent.   |
| <i>If the Board of Trustees has a nominating committee, describe the responsibilities, powers and operation of the nominating committee.</i>   | The Corporate Governance & Compensation Committee is responsible for Trustee nominations.<br><br>See Appendix B: Mandate of the Corporate Governance & Compensation Committee and the Report of the Corporate Governance & Compensation Committee on page 92 of this circular for additional information.   |
| <b>Compensation</b>  |   |
| <i>Describe the process by which the Board of Trustees determines the compensation for the issuer's Trustees and officers.</i>   | The Named Executive Officers of the REIT are employed by Melcor Developments, rather than the REIT, and the committee does not make recommendations or participate in decisions regarding their compensation. However, should the REIT directly retain executive officers, the committee will be responsible for reviewing and approving their compensation, including general salary structure and short- and long-term incentive programs and bonuses. The committee also discusses personnel and human resource matters, including recruitment and management succession plans. See Compensation Discussion and Analysis contained in this circular for additional information.  |
| <i>Disclose whether the compensation committee is composed entirely of independent Trustees.</i>   | The Corporate Governance & Compensation Committee is composed of three (3) Trustees, all independent.   |
| <i>If the Board of Trustees has a compensation committee, describe the responsibilities, powers and operation of the compensation committee.</i>   | The Corporate Governance & Compensation Committee does not make recommendations or participate in decisions regarding compensation, as Melcor Developments employs all personnel who support REIT operations.<br><br>See Appendix B: Mandate of the Corporate Governance & Compensation Committee and the Report of the Corporate Governance & Compensation Committee contained in this circular for additional information.  |
| <b>Other Board Committees</b>  |   |
| <i>If the Board of Trustees has other standing committees, identify them and describe their function.</i>  | In January 2021, The Board formally established an Independent Committee to examine and recommend regular renewals and/or amendments to agreements between Melcor Developments Ltd. and the REIT and other matters as directed by the Board. The Independent Committee was chaired by independent and Lead Trustee Larry Pollock and comprised of the same members as the CGCC.<br><br>The Independent Committee recommended revisions to the agreements as follows: <ul style="list-style-type: none"> <li>Asset Management Agreement amended to provide greater flexibility with respect to the timing of a potential internalization by allowing termination on 1 years notice.</li> <li>Property Management Agreement amended to provide greater flexibility with respect to the timing of a potential internalization by allowing termination on 1 years notice and lease fees amended to align with market rates.</li> </ul> Unitholders will be asked to approve the amended Asset Management agreement and the work of the Independent Committee is now complete. |
| <b>Assessments</b>   |   |
| <i>Disclose whether or not the Board of Trustees, its committees and individual Trustees are regularly assessed with respect to their effectiveness and contribution. If assessments are regularly conducted, describe the process used for the assessments.</i> | The Corporate Governance & Compensation Committee has the responsibility for assessing the Board's effectiveness as a whole. A periodic self-assessment is conducted with the findings reported to the full Board.<br><br>The assessment process examines the effectiveness of the Board as a whole and specifically reviews areas that the Board members believe could be improved to ensure the continued effectiveness of the Board in the execution of its responsibilities. An assessment of each individual Trustee is not performed; however, each Trustee has a one-on-one conversation with the Lead Trustee.  |

| Governance Guideline   | Comments   |
|--|--|
| <b>Trustee Term Limits and Other Mechanisms for Board Renewal</b>  |  |
| <i>Disclose whether or not the issuer has adopted term limits for Trustees.</i>  | <p>The Board is responsible for recommending candidates for election to unitholders from time to time that together contribute the right mix of skills and qualities to the Board. To assist in making those recommendations, the Board periodically conducts both formal and informal reviews of the effectiveness of the Board and individual Board members.</p> <p>The Board is concerned that imposing arbitrary and inflexible Trustee term limits may result in the REIT losing valued Trustees at a time when it most needs their skills, qualities and contributions, as well as their knowledge of the history and culture of the organization. Mandatory retirement ages pose the same risk and the Board does not want to risk the loss of key Trustees to retirement policies that seem unnecessarily arbitrary and inflexible when they force a high performing Trustee off the Board. Consequently the Board has not adopted term limits for its Trustees but rather relies on the experience of its members to determine when Board renewals, removals and additions are appropriate.</p> |
| <b>Policies Regarding the Representation of Women on the Board</b>   |  |
| <i>Disclose whether the issuer has adopted a written policy related to identifying and nominating women Trustees.</i>  | <p>The REIT has an Employment Equity and Diversity Policy (Appendix E), which recognizes employment equity and diversity as values that are important to the REIT.</p> <p>Two of the REIT's six trustees are female, representing 50% of independent trustees.</p> <p>The Board evaluates potential nominees annually by reviewing the qualifications of prospective members and determines their relevance taking into consideration current Board composition and the anticipated skills required to round out the capabilities of the Board, including knowledge and diversity of membership.</p>   |
| <i>Disclose whether, and if so, how, the Board nominating committee considers the level of representation of women on the Board when identifying and nominating candidates for election or reelection.</i> | The Board annually evaluates potential nominees by reviewing the qualifications of prospective members and determines their relevance, taking into consideration current Board composition and the anticipated skills required to round out the capabilities of the Board, including knowledge and diversity of membership. See Appendix E: Employment Equity and Diversity Policy   |
| <i>Disclose whether, and if so, how, the issuer considers the level of representation of women in executive officer positions when making executive officer appointments.</i>                              | Melcor, the REIT's Asset and Property Manager, is committed to the fundamental principles of equal employment opportunities as prescribed in its employment policies. We are committed to treating people fairly, with respect and dignity, and to offering equal employment opportunities based upon an individual's qualifications and performance. Furthermore, the REIT's employment policies and procedures provide that candidates are selected based on the primary considerations of experience, skill and ability. Note that the REIT has no employees. See Appendix E: Employment Equity and Diversity Policy  |
| <i>Disclose whether the issuer has adopted a target regarding women on the Board.</i>  | The REIT has not adopted a target regarding women on its Board. In its annual review and evaluation of potential nominees to the Board, the Corporate Governance and Compensation Committee focuses on the current Board composition and the anticipated skills required to round out the capabilities of the Board, including knowledge and diversity of its membership. See Appendix E: Employment Equity and Diversity Policy   |
| <i>Disclose whether the issuer has adopted a target regarding women in executive officer positions.</i>  | The REIT has not adopted a target regarding women in executive officer positions as it is an equal employment opportunity employer whereby candidates are selected based on the primary considerations of experience, skill and ability. See Appendix E: Employment Equity and Diversity Policy  |
| <i>Disclose the number and proportion of Trustees who are women.</i>   | Of the six (6) members of the Board, two (2) are women (33%). Two (2) of four (4) independent Trustees are women (50%).  |
| <i>Disclose the number and proportion of executive officers of the issuer who are women.</i>   | The REIT has two (2) Executive Officers, one (1) is a woman (50%).   |

# APPENDIX A MANDATE OF THE BOARD OF TRUSTEES

## Introduction

The primary responsibility of the Board of Trustees of the REIT is to oversee the management of the business and to pursue the best interests of the REIT. The Board has plenary power and exercises overall responsibility for the management and supervision of the affairs of the REIT.

## Board Meetings

In order for the Board to transact business, a majority of the Trustees must be present, and a majority of those present must be resident Canadians. The Board shall meet on a regular basis and shall schedule a sufficient number of meetings (whether in person or by teleconference) to carry out its mandate, which shall occur at least once each quarter. The Board shall have an in camera session at each Board meeting with only independent Trustees present.

## Reports from Committees/Subsidiaries

Unless waived by the Board, each committee Chair shall provide a report to the Board on material matters considered by the committee at the first Board meeting after the committee's meeting. Each Board of a material subsidiary that does not have the same Trustees as the Board shall provide a report to the Board on material matters considered by the subsidiary Board at the first Board meeting after the subsidiary's meeting.

### Chair

The Board shall appoint a Chair of the Board who shall have responsibility to ensure that the Board discharges its duties and responsibilities.

### Lead Trustee

In the event the Chair of the Board is not independent, the independent members of the Board shall appoint a lead Trustee. The lead Trustee will Chair the meetings of the independent Trustees and assume other responsibilities as the Board may designate from time to time.

### Outside Advisors

The Board shall have the authority to retain, at the REIT's expense, independent advisors and consultants to advise the Board as it determines necessary to carry out its duties and to fix the remuneration of such advisors and consultants. The Board may request any officer or employee of the REIT, or the REIT's internal or external auditors or legal counsel to attend a meeting of the Board or to meet with any Trustees of, or consultants to, the Board.

### Governance

The Board has responsibility for developing the REIT's approach to governance issues although the Governance Committee plays a key role by recommending and reporting on governance issues, including ethical conduct, to the Board. The Board may delegate specific governance issues to other committees of the Board. The Board is responsible for establishing the appropriate procedures to ensure that the Board, Board committees and individual Trustees can function independently of management.

### General Duties

It is the duty of the Trustees of the REIT to manage, or supervise the management of, the business and affairs of the REIT. In exercising his or her duties, every Trustee shall act honestly and in good faith with a view to the best interests of the REIT and

exercise the care, diligence and skill that a reasonably prudent person would exercise in similar circumstances. Each Trustee shall also comply with the provisions of the Canada Business Corporations Act, and the by-laws of the REIT.

### Trustees' Duties and Responsibilities

The Board has responsibility for stewardship of the REIT, including:

#### Strategic Planning Process

- Provide input to management on emerging trends and issues.
- Review and approve management's strategic plans.
- Review and approve the REIT's financial objectives, plans and actions, including significant capital allocations and expenditures.

#### Monitoring Tactical Progress

- Monitor the REIT's performance against the strategic and business plans, including assessing operating results to evaluate whether the business is being properly managed.

#### Risk Assessment

- Identify the principal risks of the REIT's businesses and ensure that appropriate systems are in place to manage these risks.

#### Environmental, Social & Governance

- Oversee the REIT's approach to environmental, social and governance issues.

#### Senior Level Staffing

- Select, monitor and evaluate the CEO and other senior executives, and ensure management succession.
- Approve a position description for the CEO including limits to management's responsibilities and corporate objectives which the CEO is responsible for meeting, all upon recommendation from the Governance Committee.

#### Integrity

- Ensure the integrity of the REIT's internal control and management information systems.
- Ensure ethical behaviour and compliance with laws and regulations, audit and accounting principles, and the REIT's own governing documents.

#### Material Transactions

- Review and approve material transactions not in the ordinary course of business.

#### Monitoring Trustees' Effectiveness

- Assess its own effectiveness in fulfilling the above Trustees' responsibilities, including monitoring the effectiveness of individual Trustees.

#### Other

- Perform such other functions as prescribed by law or assigned to the Trustees in the REIT's Declaration of Trust.

## APPENDIX B MANDATE OF THE CORPORATE GOVERNANCE & COMPENSATION COMMITTEE

### A. PURPOSE

1. At Melcor Real Estate Investment Trust, corporate governance means the process and structure, used to supervise the business and affairs of the REIT, with the objective of enhancing unitholder value, which includes ensuring the financial viability of the business. The process and structure define the division of power, and establish mechanisms for achieving accountability among unitholders, the Board of Trustees of the REIT and management of the REIT.
2. The purpose of the Corporate Governance & Compensation Committee (the "Committee") of the Board is:
  - a. To provide a focus on governance that will enhance the REIT's performance. The Committee assesses and makes recommendations regarding Board effectiveness, establishes and leads the process for identifying, recruiting, appointing, re-appointing and providing ongoing development for Trustees and monitors their work performance; and
  - b. To assist the Board in fulfilling its obligations relating to compensation and establishing a plan of continuity and development of senior management; and
  - c. To establish policies and procedures designed to identify and mitigate risks associated with the REIT's compensation policies and practices.

### B. COMPOSITION AND OPERATIONS

1. The Committee shall consist of at least three members of the Board of the REIT (the "Board"), with the majority being, in the determination of the Board, "independent" as that term is defined by Multilateral Instrument 52-110, as amended from time to time, and the majority of whom shall be resident Canadians. Each member shall complete and return to the REIT annually a questionnaire regarding the member's independence. Non-independent Trustees shall abstain from voting on matters related to Trustee nominations and compensation.
2. The membership of the Committee will represent a diverse background of experience and skills. To ensure the Committee has the expertise to carry out its mandate, it is intended that its members will have, or acquire within a reasonable period of time after being appointed, an understanding of relevant issues relating to governance and compensation.
3. The Committee shall have the authority to delegate tasks to individual members and subcommittees.
4. The Committee shall have the authority to engage and compensate any outside advisor that it determined to be necessary to permit it to carry out its duties.

5. The Committee may invite such officers, Trustees and employees and consultants of the REIT as it may see fit, from time to time, to attend at meetings of the Committee, and assist in the discussion and consideration of matter under consideration by the Committee.
6. The Committee shall meet at least twice each year. The members of the Committee shall determine the time and place where meetings of the Committee shall be held, the calling of meetings and the procedure at such meetings. At each meeting, the Committee shall hold an *in camera* session with only Committee members present.
7. The Board shall appoint one of the members of the Committee as Committee Chair. The Chair of the Committee so appointed shall preside as Chair at Committee meetings. If the Chair is not present at any meeting of the Committee, the Committee, among the members present, shall choose the Chair of the meeting.
8. The Secretary to the Committee will be either the Secretary of the REIT or his or her delegate.
9. The members of the Committee shall be appointed at the first meeting of the Board, following each Annual Meeting of unitholders of the REIT.
10. Any member of the Committee may be removed or replaced at any time by the Board and shall cease to be a member of the Committee on ceasing to be a Trustee. The Board may fill vacancies on the Committee by election from among its number. If and whenever a vacancy shall exist on the Committee, the remaining members may exercise all its powers so long as a quorum remains in office. Subject to the above, each member of the Committee shall hold office as such until the next Annual Meeting of unitholders after his/her election.

### C. DUTIES AND RESPONSIBILITIES

Subject to the powers and duties of the Board, the Committee will be responsible for:

1. Developing a long-term plan for Board composition that takes into consideration the current strengths, skills and experience on the Board, retirement dates and the strategic direction of the REIT.
2. Developing recommendations regarding the essential and desired experiences, competencies, skills and personal qualities for potential Trustees, taking into consideration the Board's short-term needs and long-term succession plans.
3. Reviewing and making recommendations to the Board concerning any change in the number of Trustees composing the Board;
4. Overseeing the recruitment and selection of candidates as Trustees of the REIT, other than Melcor Developments Ltd.'s nominees. The recruitment and selection of such



candidates will involve an identification of the qualifications for Trustees that are required to fulfill Board responsibilities and an evaluation of the qualifications that existing Trustees possess. The Committee will then recommend candidates to the Board for nomination as Trustees to be elected by the unitholders.

5. Organizing an orientation and education program for new Trustees as to the nature and operation of the REIT and its business, as to the role of the Board, its committees, the Chair of the Board and the lead Trustee of the Board (if applicable), and as to the contribution that an individual Trustee is expected to make.
6. Coordinating continuing Trustee development programs to enable the Trustees to maintain or enhance their skills and abilities as Trustees as well as ensuring their knowledge and understanding of the REIT and its business remains current.
7. Considering and approving proposals by the Trustees to engage outside advisers on behalf of the Board as a whole or on behalf of the independent Trustees.
8. Reviewing and approving the compensation paid by the REIT, if any, to consultants of the REIT.
9. Reviewing and making recommendations to the Board concerning the level and nature of the compensation payable, if any, to the Trustees and officers of the REIT.
10. Ensure compensation policies and practices for the Trustees, the CEO and the senior executives:
  - a. Properly reflect their respective duties and responsibilities;
  - b. Are competitive in attracting, retaining and motivating people of the highest quality;
  - c. Align the interests of the Trustees, the Chief Executive Officer and the senior executives with unitholders and the REIT as a whole;
  - d. Are based on established business and individual performance objectives; and
  - e. Do not encourage the taking of inappropriate or excessive risks.
11. Administering any unit option or purchase plan of the REIT or any other compensation incentive programs, having regard to the REIT's business objectives and the risks to which it is exposed;
12. Assessing the performance of the CEO, the officers and other members of the executive management team of the REIT in light of pre-established performance objectives and report its conclusions to the Board.
13. Assessing the effectiveness of the Board, each of its committees and individual Trustees. Trustees will be regularly surveyed to form the basis of such assessment and such assessment will be reviewed by the Chair of the Board, with the exception of the assessment of the Chair of the Board and the non-independent Trustees, which will be reviewed by the lead Trustee.

14. At the request of the Chair of the Board or the Board, undertake such other corporate governance initiatives, as may be necessary or desirable to contribute to the success of the REIT.
15. Recommend to the Board any reports on corporate governance that may be required or considered advisable.
16. Review unitholders proposals, as required, and recommend to the Board the REIT's response to the proposals.
17. Review all annual executive compensation disclosure before it is publicly released.
18. Review related party transactions between the REIT and any related parties, including the compensation plans of the CEO, officers and members of the executive management team of the REIT.
19. Review and approve the REIT's insurance policies and associated premiums.

#### **D. ACCOUNTABILITY**

1. The Committee shall report its discussions and recommendations to the Board by distributing the minutes of its meetings and, where appropriate, by oral report at the next Board meeting.
2. Minutes of all committee meetings will be subsequently reviewed and approved by the Committee.
3. For the purposes of performing their duties, the members of the Committee shall have the right at all reasonable times to inspect all the books and records of the REIT and its subsidiaries, and to discuss with management and officers, such accounts, records and matters relating to remuneration paid by the REIT.



## APPENDIX C MANDATE OF THE INVESTMENT COMMITTEE

### COMPOSITION AND EXPERIENCE

1. The Investment Committee (the "Committee") shall be composed of not less than three (3) Trustees of the Melcor Real Estate Investment Trust (the "REIT"), a majority of whom shall be independent within the meaning of National Instrument 58-101 (the same amended and replaced from time to time). Further, provided that Melcor Developments then has the right to nominate at least one Trustee, one Melcor Developments-nominated Trustee shall be entitled to a position on the Committee. Each of the Committee members must have at least five years of experience in the real estate industry.
2. One of the members of the Committee shall be appointed Committee Chair by the Board of Trustees (the "Board") of the REIT. If the Chair is not present at any meeting of the Committee, the Committee, among the members present, shall choose the Chair of the Meeting.
3. The members of the Committee shall be appointed or re-affirmed at the first meeting of the Board following each Annual Meeting of unitholders of the REIT. Each member of the Committee shall continue to be a member thereof until his or her successor is appointed, unless he or she resigns, is removed by the Board or otherwise ceases to be a Trustee of the REIT. Where a vacancy occurs at any time in the membership of the Committee, such vacancy may be filled by the Board and shall be filled by the Board if the membership of the Committee is, as a result of the vacancy, less than three Trustees.
4. The Committee may invite such officers, Trustees and employees of the REIT or any other person as it may see fit from time to time to attend at the meetings of the Committee and assist thereat in the discussion and consideration of the matter under consideration by the Committee.

### MANDATE AND AUTHORITY

1. The Committee shall be entitled to:
  - a. authorize, without Board approval, proposed acquisitions, dispositions or borrowings where the acquisition, disposition or borrowing (including the assumption or granting of any mortgage) and the renewal, extension or modification of any existing mortgage, where the value of such transaction does not exceed \$20 million; and
  - b. recommend to the Board whether to approve or reject proposed acquisitions, dispositions or borrowings (including the assumption or granting of any mortgage) where the value of such transaction exceeds \$20 million.

### MEETINGS

1. The time and place where the meetings of the Committee shall be held, the calling of meetings and the procedure in all respects at such meetings shall be determined by the members of the Committee.
2. Meetings of the Committee shall be validly constituted if a majority of the members are present, in person or by telephone conference.
3. The Committee shall have an in camera session at each meeting with the only Committee members present.

### REPORTING

1. The minutes of all meetings of the Committee shall be provided to the Board. An oral report of all recent matters not yet reduced to minutes will be given by the Chair at the next meeting of the Board. Minutes of all Committee meetings will be subsequently reviewed and approved by the Committee.

## APPENDIX D POSITION DESCRIPTIONS

### Chair

A key responsibility of the Chair of the Board of Trustees is to provide leadership to the Board to enhance Board effectiveness. The Board has ultimate accountability for supervision of the management of the REIT. Critical to meeting this accountability is the relationship between the Board, management, unitholders and other stakeholders. The Chair, as the presiding member, must oversee that these relationships are effective, efficient and further the best interests of the REIT.

The Chair reports to the Board. The Chair shall:

- Chair all meetings of the Board of Trustees and unitholders;
- Lead the Board in ensuring that the Board assumes its duties and responsibilities for the stewardship of the REIT as set out in the Corporate Governance Guidelines as approved by the Board, the constating documents of the Corporation and corporate law;
- Ensure, in cooperation with the CEO and the Board, that there is an effective succession plan in place for the CEO position and the other senior management positions of the REIT;
- Assist the Chief Executive Officer and other members of the senior management team in the short and long range planning activities of the REIT including the acquisition and growth strategies;
- Ensure the development, on an annual basis, of the corporate objectives which the Chief Executive Officer is responsible for meeting, for the review and approval of the Board;
- Establish the agenda for meetings of the Board in conjunction with the Chief Executive Officer, and ensures the proper and timely flow of information to the Board sufficiently in advance of the meetings;
- Act as a liaison between the REIT's management and the Board where and if required;
- In conjunction with the Chief Executive Officer, represent the REIT before its stakeholders, including unitholders, managers, the investment community, the industry and the public;
- Undertake the lead on any corporate governance matter that the Board may request from time to time;
- Develop and maintain a good working relationship between the office of the Chair, the CEO, and the Board to assure open communications, cooperation, interdependence, mutual trust, respect, and commonality of purpose;
- Take steps to foster the Board's understanding of its responsibilities and boundaries with management;
- Establish any other procedures to govern the effective and efficient conduct of the Board's work; and
- Carry out other duties as requested by the Board.

### Lead Trustee

The Chair of the Board is not independent as he is a Melcor nominee. Therefore, in keeping with the spirit and intent of good corporate governance and following the recommendations of the corporate governance guidelines set out by the Canadian Securities Administrators, the Board has appointed one of its independent Trustees to fill the role of lead Trustee.

The following outlines the duties and responsibilities of the lead Trustee:

- Develop the agenda for the Executive Sessions of the Board (i.e. without management present), with such sessions to be held at least two (2) times each year, or as required or deemed necessary, and to Chair such Sessions;
- Act as a liaison between the REIT's management and the Board where and if required;
- Ensure the Board is carrying out its responsibilities in accordance with good governance practices, the constating documents of the Corporation, the approved corporate governance guidelines and that the Board is enabled to carry out its duties as prescribed and under the law.
- Consider any other appropriate structures and procedures to ensure that the Board can function independently of management; and
- Undertake the lead on any other corporate governance matters that the Board may request from time to time.

### Corporate Governance & Compensation Committee Chair

The primary responsibility of the Chair of the Corporate Governance & Compensation Committee ("CGCC") is to provide leadership to the CGCC to ensure its effectiveness. Critical to meeting this accountability is ensuring that the Corporation has in place an appropriate and effective system of corporate governance.

The Chair of the CGCC shall:

- Set the tone for the work of the CGCC;
- Set the agenda and Chair CGCC meetings, and ensure distribution of meeting materials and minutes;
- Oversee the logistics of the committee's operations and ensure compliance with the approved terms of reference of the CGCC; and
- Report to the full Board on the decisions and recommendations of the CGCC.

## Chief Executive Officer

The Chief Executive Officer (CEO) reports to the Board of Trustees. The duties and responsibilities of the position include, but are not limited to, the following:

- Develop and recommend to the Board a long-term strategy and vision for the REIT that leads to the creation of unitholder value;
- Develop, on an annual basis, the corporate and personal objectives for which the CEO will be held accountable, for the review and approval of the Board;
- Foster a corporate culture that promotes ethical practices, encourages individual integrity, and fulfills social responsibility;
- Maintain a positive and ethical work climate that is conducive to attracting, retaining, and motivating a diverse group of top-quality employees at all levels;
- Assemble and lead an effective and efficient organization that is capable of meeting corporate objectives; ensuring that corporate policies are understood and are properly interpreted and administered by the organization;
- Consistently strive to achieve the REIT's financial and operating goals and objectives, as recommended to and approved by the Board;
- Ensure that the REIT has an effective management team below the level of the CEO, and has an active plan for its development and succession;
- In conjunction with the Chair, to represent the REIT before its stakeholders, including employees, customers, unitholders, the investment community, the industry and the public.

## APPENDIX E EMPLOYMENT EQUITY & DIVERSITY POLICY

### Introduction

*This Employment Equity and Diversity Policy (the "Policy") sets out the approach to employment equity and diversity of Melcor Real Estate Investment Trust (the "Trust").*

### Scope and Application

"Employment equity" recognizes the value and dignity of each individual and ensures that each individual will have genuine, open and unhindered access to employment opportunities with the Trust. Employment equity involves hiring the most suitably qualified candidate for any open position while ensuring that the hiring process and the qualifications required for each position are fair and equitable for all persons.

"Diversity" involves recognizing and valuing the unique contribution people can make to the Trust because of their individual background, different skills, experiences and perspectives. The Trust also recognizes that diversity within the workforce will generate value for the Trust's stakeholders (including its customers, unitholders, employees, and the communities in which it operates). Fostering diversity also allows the Trust to attract, retain and motivate employees from the widest pool of available talent.

The Trust will take all appropriate steps to ensure that throughout the entire organization both a high standard of employment equity, and a culture accepting and encouraging of diversity, are maintained at all times.

### Policy Statement

The Trust will retain, promote and hire the best people it can, focusing on actual and potential contribution in terms of their performance, competence, collaboration and professional accountability. Management will ensure that all employment-related decisions are based on principles of individual merit and achievement such as job performance, skills, knowledge, and abilities relevant to specific positions and not on factors unrelated to a person's performance or ability to do the job.

The Trust will foster an inclusive culture, accepting and encouraging of diversity within its workforce, and will not discriminate in its employment practices on the basis of gender, race, ethnicity, sexual orientation, religion, age, disability, or any other characteristic protected by law. This includes all aspects of employment at every level within the Trust (i.e. - from the Board of Trustees (the "Board") level on down), including: hiring; job assignment; compensation; discipline; termination; access to benefits; and training. In order to garner the full benefits of diversity (including the availability of the widest pool of available talent), Management will periodically review the Trust's recruitment and selection practices at all levels (from the Board level on down) to ensure they are appropriately structured so that a diverse range of candidates are considered and that there are no conscious or unconscious biases that might discriminate against certain candidates.

Management will make reasonable accommodation for qualified individuals with known disabilities unless doing so would result in an undue hardship.

Management will lead this Employment Equity and Diversity Policy by regarding it as a key business issue and an essential part of the Trust's day to day business activities.

The Board will annually review (i) Management's report to the Board regarding the proportion of women in the Trust's workforce throughout the Trust's various offices and across its various employment levels; and (ii) this Employment Equity and Diversity Policy to determine if the objectives of the Policy are being met and to consider the adequacy and appropriateness of the Policy in furthering the Trust's objectives.

Any employee with questions or concerns about discrimination in the workplace is encouraged to bring these issues to the attention of their immediate Supervisor, the Trust's Human Resources department, or any senior officer of the Trust. Employees can raise concerns and make reports without fear of reprisal. It is also a violation of this Policy for anyone to knowingly make a false complaint of discrimination, or to provide false information about a complaint. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

*This Policy will be published on the Trust's website for public information purposes.*