



**SMARTCENTRES REAL ESTATE INVESTMENT TRUST**

**Notice of Annual General and Special Meeting  
of Holders of Units and Special Voting Units to be held on  
December 9, 2020**

**- and -**

**Management Information Circular**

**November 6, 2020**



**SMARTCENTRES®**  
REAL ESTATE INVESTMENT TRUST  
**INVITATION TO UNITHOLDERS**

November 6, 2020

Dear Fellow Unitholders,

SmartCentres Real Estate Investment Trust (“**SmartCentres**” or “**we**”) is pleased to invite you to join our Board of Trustees and senior management team at the annual general and special meeting of the holders of our Units and Special Voting Units. The meeting will be held in a virtual only format via live audio webcast online at <https://web.lumiagm.com/259164587> at 11:00 a.m. (Toronto time) on December 9, 2020. Additional information regarding how to attend the virtual meeting is enclosed. Please see “Voting at the Meeting” on page 1 for further information. Given the ongoing uncertainty surrounding the coronavirus (COVID-19) pandemic, and in order to mitigate the risks to the health and safety of our communities, Unitholders, employees and other stakeholders, the Board of Trustees has elected to hold this year’s meeting in a virtual only format.

The annual meeting provides SmartCentres’ Unitholders with an important opportunity to consider and participate in key matters for SmartCentres. The accompanying management information circular describes the business to be conducted at the annual meeting and provides information on SmartCentres’ executive compensation and governance practices. Unitholders will have an equal opportunity to participate online, regardless of their geographic location. At the annual meeting, there will be an opportunity for registered unitholders and duly appointed proxyholders to submit questions and vote online. It is important to note that Unitholders will not be able to attend this year’s meeting in person. Those wishing to access and vote at the meeting during the live webcast will need to ensure that they remain connected to the meeting at all times in order to vote when balloting commences and it is such person’s responsibility to ensure internet connectivity for the duration of the meeting.

The business to be conducted includes considering, and if thought advisable, approving certain amendments to our declaration of trust. The proposed amendments include the extension of the voting top-up right first granted to Mitchell Goldhar in 2005 as part of the new overall framework that the Board, upon the unanimous recommendation of a special independent committee of Trustees, has determined is appropriate in recognition of Mr. Goldhar’s significantly expanded role with SmartCentres and the value he continues to contribute to SmartCentres; clarification of other governance rights; amendments intended to update and align SmartCentres’ investment guidelines with current market standards and practice; amendments designed to facilitate electronic Unitholder meetings in the future and to permit voting at Unitholder meetings by means of telephonic, electronic or other communication facilities and to address other matters which are administrative in nature. The accompanying management information circular provides a detailed description of the proposed amendments to the declaration of trust. Please refer to the Report of the Special Independent Committee on pages 30 to 33 for further information. Additionally, Unitholders will be asked to consider and, if thought advisable, approve the adoption of a new equity incentive plan pursuant to which awards may be settled in Units issued from treasury or in cash, at the election of the participant.

As a Unitholder, your participation in the affairs of SmartCentres is important to us. On behalf of the Board of Trustees, management and employees, we would like to thank you for your consideration of the matters in this management information circular and for your continued support. We look forward to your attendance at the annual meeting.

Sincerely,

Peter Forde  
President and Chief Executive Officer

Michael Young  
Lead Independent Trustee

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**SMARTCENTRES REAL ESTATE INVESTMENT TRUST**  
**NOTICE OF ANNUAL GENERAL AND SPECIAL MEETING OF UNITHOLDERS**  
**to be held on December 9, 2020**

**NOTICE IS HEREBY GIVEN** that an annual general and special meeting (the “**Meeting**”) of the holders of Units (“**Units**”) and Special Voting Units (“**Special Voting Units**”) of SmartCentres Real Estate Investment Trust (“**SmartCentres**”) will be held in a virtual only format, on December 9, 2020 at 11:00 a.m. (Toronto time) via live audio webcast online at <https://web.lumiagm.com/259164587>, for the following purposes:

1. To receive and consider the consolidated financial statements of SmartCentres for the year ended December 31, 2019 and the auditor’s report thereon;
2. To elect the persons named as proposed Trustees in the management information circular accompanying this notice of meeting as Trustees of SmartCentres for the ensuing year;
3. To re-appoint PricewaterhouseCoopers LLP, Chartered Professional Accountants, as the auditor of SmartCentres for the ensuing year and to authorize the Trustees of SmartCentres to fix the remuneration of such auditor;
4. To consider and vote on an advisory resolution on SmartCentres’ approach to executive compensation, as more particularly set forth in the management information circular accompanying this notice of meeting;
5. To consider, and if thought advisable, to pass a resolution approving certain amendments to the declaration of trust of SmartCentres (the “**Declaration of Trust**”) to extend the term of the voting top-up right held by Mr. Mitchell Goldhar and clarify other governance rights, all as more particularly set out in the management information circular accompanying this notice of meeting;
6. To consider, and if thought advisable, to pass a resolution approving certain amendments to the Declaration of Trust related to its investment guidelines and operating policies and the composition of its investment committee, all as more particularly set forth in the management information circular accompanying this notice of meeting;
7. To consider, and if thought advisable, to pass a resolution approving certain amendments to the Declaration of Trust to permit meetings of Unitholders to be held electronically and to permit voting at Unitholder meetings by means of telephonic, electronic or other communication facilities and to address other administrative matters, all as more particularly set forth in the management information circular accompanying this notice of meeting;
8. To consider, and if thought advisable, to pass a resolution approving the adoption of a new equity incentive plan (the “**EIP**”) which provides for a maximum of 3,000,000 Units reserved for issuance thereunder and which contemplates that awards may be settled in Units issued from treasury or in cash at the election of the participant, as more particularly set forth in the management information circular accompanying this notice of meeting; and
9. To transact such other business as may properly come before the Meeting or any adjournment or postponement thereof.

The holders of Units and the holders of Special Voting Units are collectively referred to herein as the “**Unitholders**”.

The specific details of the matters proposed to be put before the Unitholders at the Meeting are set forth in the accompanying management information circular. The record date for determination of Unitholders entitled to receive notice of and to vote at the Meeting is October 26, 2020 (the “**Record Date**”). Only Unitholders whose names appear on the register of Unitholders at the close of business on the Record Date will be entitled to receive notice of and to vote at the Meeting.

Due to the public health impact of COVID-19, the Meeting will be held in a virtual only format conducted via live audio webcast in order to help mitigate health and safety risks to our community, Unitholders, employees and other stakeholders. Regardless of geographic location, registered unitholders and duly appointed proxyholders will have an equal opportunity to participate at the Meeting and vote on the applicable resolutions. The vast majority of Unitholders vote by proxy in advance. All Unitholders are encouraged to vote by proxy ahead of the Meeting.

Registered Unitholders and duly appointed proxyholders may attend the Meeting virtually, submit questions and vote provided they are connected to the internet and comply with all of the requirements set out in the accompanying management information circular. Registered Unitholders who are unable to attend the Meeting or any adjournment or postponement thereof are requested to date, sign and return the form of proxy accompanying this notice of meeting sent to them for use at the Meeting or any adjournment or postponement thereof. To be effective:

- (a) a form of proxy submitted by a registered holder of Units must be received by the Chief Financial Officer of SmartCentres, c/o Computershare Trust Company of Canada, 100 University Avenue, 8th Floor, Toronto, Ontario M5J 2Y1; and
- (b) a form of proxy submitted by a registered holder of Special Voting Units must be received by the Chief Financial Officer of SmartCentres at the head office of SmartCentres located at 3200 Highway 7, Vaughan, Ontario L4K 5Z5;

in each case by 11:00 a.m. (Toronto time) on December 7, 2020, or at least 48 hours (excluding Saturdays, Sundays and holidays) prior to any adjournment or postponement of the Meeting. The Chairman of the Meeting will have the discretion to accept or reject proxies deposited in any other manner, including waiving the time limit for deposit of proxies, without notice.

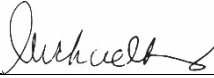
Non-registered Unitholders who have received a voting instruction form in connection with the Meeting should follow the instructions for completion and delivery as indicated on the form.

Unitholders who wish to appoint and register a proxyholder to attend the Meeting on their behalf must carefully follow the instructions in the accompanying management information circular and their form of proxy or voting instruction form, as applicable. Failure to properly register a proxyholder with our transfer agent will result in the proxyholder not receiving a Username to vote at the Meeting and only being able to attend as a guest.

If you have any questions or require assistance voting, you may contact our strategic unitholder advisor and proxy solicitation agent, Kingsdale Advisors, by telephone at 1-888-694-4330 within North America, (+1-416-867-2272 for collect calls outside North America) or by email at [contactus@kingsdaleadvisors.com](mailto:contactus@kingsdaleadvisors.com).

DATED at the City of Vaughan, in the Province of Ontario, this 6<sup>th</sup> day of November, 2020.

**BY ORDER OF THE BOARD OF TRUSTEES OF  
SMARTCENTRES REAL ESTATE INVESTMENT TRUST**

By:   
\_\_\_\_\_  
Michael Young  
Lead Independent Trustee

## Q&A RELATING TO THE MEETING

### 1. Where and when is the meeting?

The annual general and special meeting of Unitholders of SmartCentres will take place in a virtual only format at 11:00 a.m. (Toronto time) on December 9, 2020 via live audio webcast online at <https://web.lumiagm.com/259164587>. You can vote online at the meeting (if you are a registered Unitholder or duly appointed proxyholder, including a non-registered Unitholder who has appointed and registered yourself as proxyholder) or by proxy. See the section entitled “Solicitation of Proxies and Voting at the Meeting - Voting at the Meeting” in the accompanying management information circular for more information.

### 2. Why is this year’s meeting virtual-only?

This year’s meeting will be held virtually via live online audio webcast, due to the ongoing uncertainty surrounding the coronavirus (COVID-19) pandemic in order to mitigate the risks to the health and safety of our communities, Unitholders, employees and other stakeholders. Registered Unitholders are encouraged to vote in advance of the meeting at [www.investorvote.com](http://www.investorvote.com) or via telephone at 1-866-732-VOTE (8683) or as described below and in the accompanying management information circular. Non-registered Unitholders are kindly asked to return their voting instructions as specified in the voting instruction form.

Registered Unitholders and duly appointed proxyholders (including non-registered Unitholders who have appointed themselves as proxyholders) will be entitled to attend virtually, participate and vote at the meeting, all in real time. Guests and non-registered Unitholders who do not appoint themselves as proxyholder may still access and listen to the meeting but will not be able to vote or submit questions.

It is important to note that you will not be able to attend this year’s meeting in person. If you are accessing and voting at the meeting you must remain connected to the internet at all times during the meeting in order to vote when balloting commences. It is your responsibility to ensure internet connectivity for the duration of the meeting.

### 3. What are Unitholders voting upon at the meeting?

Unitholders are voting on the election of Trustees for the coming year and the appointment of auditors. We are seeking the approval of these matters by Unitholders holding at least a majority of the votes cast at the meeting. Unitholders will also vote on a non-binding say-on-pay advisory resolution as set out in further detail below.

In addition, Unitholders will be asked to vote on three different sets of amendments to SmartCentres’ declaration of trust (the “**Declaration of Trust**”):

- Amendments required in connection with the extension of the term of the voting top-up right held by Mitchell Goldhar and the other MG Entities (as defined in the Declaration of Trust), as well as certain amendments which clarify other governance rights (collectively, the “**MG Amendments**”). Mitchell Goldhar has had this voting top-up right since 2005. We are seeking approval of the MG Amendments by two-thirds of the votes cast by all Unitholders voting at the meeting. In the interest of good governance and best practices and in complying with stock exchange rules, we are also seeking the approval of the MG Amendments by a majority of votes cast at the meeting by public unitholders of SmartCentres (being those Unitholders that do not have an interest and are not related parties or joint actors with any person that has an interest in the MG Amendments) (the “**Public Unitholders**”). Mr. Goldhar and the other MG Entities (the “**Excluded Voting Unitholders**”) are not Public Unitholders. The Excluded Voting Unitholders hold 15,002,063 Units and 30,111,243 Special Voting Units which will not be entitled to vote on the majority of minority vote to approve the MG Amendments.
- Amendments to SmartCentres’ investment guidelines and operating policies in order to update and align our investment guidelines and operating policies with current market standards and practice, as well as an amendment to increase the maximum number of investment committee members to six (collectively, the “**Investment Guidelines Amendments**”). We are seeking approval of the Investment Guidelines Amendments by two-thirds of the votes cast by all Unitholders voting at the meeting.
- Amendments to permit future Unitholder meetings to be held electronically and to permit voting at Unitholder meetings by means of telephone, electronic or other communication facilities and to address other

administrative matters (collectively, the “**General Amendments**”). We are seeking approval of the General Amendments by a majority of votes cast by all Unitholders voting at the meeting.

- The MG Amendments, Investment Guidelines Amendments and General Amendments require three separate votes because the approval threshold for each group of amendments is different. See the section of the accompanying management information circular entitled “Particulars of Matters to be Acted Upon – Amendments to Declaration of Trust” for more information.

We are also asking Unitholders to vote on the adoption of a new equity incentive plan (the “**EIP**”) which contemplates that awards may be settled in Units issued from treasury or in cash at the participant’s election. We are seeking approval of the EIP by a majority of votes cast by all Unitholders. A maximum of 3,000,000 Units will be reserved for issuance under the EIP.

#### **4. What agreements have SmartCentres and Mitchell Goldhar entered into?**

SmartCentres and Mitchell Goldhar have entered into a series of agreements including, among others, the following: (i) a new employment agreement for Mitchell Goldhar with a fixed term to December 31, 2025; (ii) a new non-competition agreement which covers a broader scope of activities than the existing non-competition agreement; (iii) an amended and restated services agreement which expands the scope of the services provided by Penguin Investments Inc. to cover all of SmartCentres’ properties, amends the fees accordingly and extends the term to December 31, 2025, (iv) an amended and restated governance and investor rights agreement which makes clarifying changes to the composition and mandate of certain of SmartCentres’ committees; (v) agreements amending certain mezzanine loans and earn-out arrangements and providing for payment of certain other immaterial outstanding amounts, including the Omnibus Agreement; and (vi) the DSA Supplement, each as more particularly described in the accompanying management information circular (collectively, the “**MG Amended Agreements**”), which are described in more detail in the accompanying management information circular. See “Report of the Special Independent Committee”, “Letter from the Chair of the Corporate Governance and Compensation Committee – Executive Chairman” and “Executive Compensation – 2019 Compensation for the Named Executive Officers – Penguin Services Agreement” for more information.

#### **5. What happens if the MG Amendments are approved by Unitholders at the meeting?**

While the MG Amended Agreements have been entered into, the MG Amended Agreements are being held pursuant to the terms of an escrow agreement and will not be effective unless and until they are released from escrow (the “**Escrow Agreement**”). If the MG Amendments are approved by Unitholders at the meeting, the MG Amended Agreements will be automatically released from escrow upon the close of business at the meeting. If the MG Amendments are not approved by Unitholders at the meeting, Mr. Goldhar has the option, which must be exercised within 2 business days of the meeting, to release all, but not less than all, of the MG Amended Agreements from escrow, failing which all of the MG Amended Agreements will be terminated and not be released from escrow and will have no legal effect. The disclosure in the accompanying management information circular assumes that the MG Amendments will be approved by Unitholders at the meeting unless otherwise expressly noted.

#### **6. What happens if the MG Amendments are not approved by Unitholders at the meeting?**

In the event that the MG Amendments are not approved by Unitholders and Mr. Goldhar does not exercise his option to release the MG Amended Agreements from escrow (i) Mr. Goldhar will remain employed as Executive Chairman under his existing employment agreement; (ii) the existing non-competition agreement will terminate in accordance with its terms; (iii) the existing services agreement with Penguin Investments Inc. (the “**Original Penguin Services Agreement**”) will terminate at the conclusion of the meeting in accordance with its terms; (iv) the agreements amending certain mezzanine loans and earn-out arrangements and providing for payment of certain other immaterial outstanding amounts, including the Omnibus Agreement, will be of no force or effect; (v) the DSA Supplement will be of no force or effect; and (vi) there will remain certain unresolved outstanding immaterial amounts between SmartCentres and Mitchell Goldhar.

#### **7. Why should Unitholders support the MG Amendments?**

Unitholders are encouraged to support the MG Amendments as the Special Independent Committee has determined that SmartCentres’ relationship with Mitchell Goldhar remains vital and beneficial to SmartCentres and that maintaining and encouraging a positive and engaged relationship by extending the Voting Top-Up Right during Mr. Goldhar’s active employment with SmartCentres would be in the best interest of SmartCentres and would continue to align the interests of Mitchell Goldhar with the other Unitholders.



In doing so, the Special Independent Committee considered, among other things, the following:

- Mitchell Goldhar brings a business acumen to all components and aspects of SmartCentres, which gives SmartCentres a competitive edge.
- Leading up to and after assuming the role of Executive Chairman, Mitchell Goldhar has significantly increased his role in all aspects of SmartCentres business, including corporate strategy, leadership, development, intensification initiatives, master planning, leasing, operations and finance.
- The Special Independent Committee's belief that Mitchell Goldhar is integral for SmartCentres to realize the full potential of its pipeline of largescale, mixed-use development opportunities, particularly given his unique strategic relationships with a number of SmartCentres key development partners (including Walmart) and his successful long-term development and operational track record.
- Mitchell Goldhar's reputation in the industry and his leadership role in SmartCentres' business and operations is expected to attract talented, knowledgeable and motivated development team members that could enhance SmartCentres' business and financial performance.
- The extension of the Voting Top-Up Right maintains the status quo, and, except for the extension of the time period during which the Voting Top-Up Right applies, there would be no substantive changes to the terms of the Voting Top-Up Right.

The MG Amendments were considered by the Special Independent Committee as part of its overall evaluation of the MG Amended Agreements. For a complete description of the process undertaken by the Special Independent Committee and the reasons for its decisions and recommendations, see "Report of the Special Independent Committee" on pages 30 to 33 in the accompanying management information circular.

The Board of Trustees of SmartCentres (the "**Board**"), based on the recommendation of the Special Independent Committee, strongly recommends that Unitholders vote in favour of the MG Amendments. See "Particulars of Matters to be Acted Upon – Amendments to Declaration of Trust – MG Amendments" for more information.

**8. Was an independent process undertaken by the Board in recommending the proposed MG Amendments?**

Yes. The Board made its recommendation that Unitholders vote **for** the proposed MG Amendments after receiving the unanimous recommendation of the Special Independent Committee, which, with the assistance of its independent advisors, conducted a comprehensive review of the MG Amendments and the MG Amended Agreements. See "Report of the Special Independent Committee" on pages 30 to 33 in the accompanying management information circular for more information.

**9. What is the ongoing role of Mitchell Goldhar with SmartCentres?**

Mitchell Goldhar has significantly increased his role in all aspects of SmartCentres business, including strategy, development, intensification initiatives, leasing and finance. Mitchell Goldhar is devoting significant time and effort to assisting SmartCentres with negotiation and development of its projects that goes beyond his role as Executive Chairman and the obligations of his companies under the Original Penguin Services Agreement. SmartCentres will continue to benefit from Mr. Goldhar's considerable knowledge and experience as both the Executive Chairman and a trustee of SmartCentres.

Mr. Goldhar continues to own the largest equity interest in SmartCentres and owns approximately 21.4% of the Units and Special Voting Units (excluding the Additional Special Voting Units issued under the Voting Top-Up Right prior to its expiry on July 1, 2020) and 25% of the Units and Special Voting Units (including the Additional Special Voting Units that remain outstanding for this meeting).

Mr. Goldhar provides SmartCentres with specified services in connection with the future development of its development projects. As a result of SmartCentres' significant increase in development activity throughout its portfolio for the foreseeable future, the scope of services being provided by Mr. Goldhar to SmartCentres in respect of development activities has greatly expanded since he first began providing such services.

**10. What amendments to the voting top-up right and clarifications to governance rights are Unitholders being asked to approve?**

For over 15 years, Mitchell Goldhar has held a voting top-up right that provided Mr. Goldhar with 25% of the total voting rights at Unitholder meetings provided certain ownership thresholds were met. Mr. Goldhar currently owns 21.4% of the total outstanding voting rights without the benefit of the Additional Special Voting Units issued under the Voting Top-Up Right. The Unitholder approval required to extend the voting top-up right beyond its July 1, 2020 expiry could not be obtained due to the decision to postpone the meeting in light of the COVID-19 pandemic. As part of the new overall framework that the Board, upon the unanimous recommendation of the Special Independent Committee, believes is appropriate in recognition of Mr. Goldhar's significantly expanded role with SmartCentres, the Board has determined that the voting top-up right should be extended and is asking Unitholders to approve the following changes to the voting top-up right (as more particularly described in the section of the accompanying management information circular entitled "Particulars of Matters to be Acted Upon – Amendments to Declaration of Trust – MG Amendments"):

- (a) Extension of the term of the voting top-up right until December 31, 2025.
- (b) Increase in the alternative ownership threshold from 20 million up to 22.8 million voting securities of SmartCentres such that, for the voting top-up right to be effective under that threshold, Mr. Goldhar or the other MG Entities must now beneficially own or control at least 22,800,000 Units and Special Voting Units. This increase is to maintain the status quo by accounting for the increase in SmartCentres' outstanding voting securities since the last extension of the Voting Top-Up Right.
- (c) Cancel Additional Special Voting Units previously issued pursuant to the voting top-up right on each record date for a Unitholder meeting to the extent the number of Units and Special Voting Units beneficially owned or controlled by Mitchell Goldhar or the other MG Entities represent more than 25% of the aggregate votes eligible to be cast at such meeting.

In addition, the following clarifying amendments to other governance rights held by the MG Entities are being proposed (as more particularly described in "Particulars of Matters to be Acted Upon – Amendments to Declaration of Trust – MG Amendments"):

- (a) Clarification of the MG Entities' existing Trustee appointment rights to confirm the effective date and term of such appointments.
- (b) Clarification of the date upon which the relevant ownership threshold test will be applied for the purpose of the MG Entities appointing Trustees, being either the record date in respect of a Unitholder meeting or the business day immediately preceding the relevant date of appointment, as applicable.
- (c) Clarification that the MG Entities have the right to fill vacancies created by past appointees ceasing to be Trustees only if the requisite ownership threshold is met at that time.
- (d) Removal of certain expired rights related to the Corporate Governance & Compensation Committee.

**11. Why does the Board want to amend SmartCentres' investment guidelines and operating policies?**

The Declaration of Trust sets out certain investment guidelines and restrictions on SmartCentres' ability to make investments and provides that the operations and affairs of SmartCentres must be conducted in accordance with certain operating policies. In light of the evolution of REITs, general changes in market practice and amendments to legislation governing REITs since the formation of SmartCentres, the Trustees have reviewed SmartCentres' investment guidelines and operating policies and have compared them to the investment guidelines, restrictions and operating policies of other real estate investment trusts and, with respect to SmartCentres guidelines related to indebtedness, SmartCentres' trust indenture and the supplemental indentures thereto. The Trustees are of the view that certain amendments should be made to simplify SmartCentres' investment guidelines and operating policies to bring them up to date and in line with the evolving market practice and the terms of the trust indenture. The Board is recommending Unitholders approve a less prescriptive approach that is similar to the approach adopted by several of its more recently formed peers. SmartCentres will in all instances continue to comply with the applicable rules and regulations of the *Income Tax Act* (Canada).

**12. Why does the Board want to amend the Declaration of Trust to facilitate electronic Unitholder meetings?**

As a result of the ongoing uncertainty surrounding the coronavirus (COVID-19) pandemic and in order to mitigate the risks to the health and safety of our communities, Unitholders, employees and other stakeholders, the Board amended the Declaration of Trust to provide that our 2020 annual general meeting of Unitholders could be held by electronic means.

As described in further detail in the accompanying management information circular, the Board is of the view that it is appropriate and in the best interests of SmartCentres to further align the Declaration of Trust with changes in practices, to facilitate the use of technology and to provide the Board with the flexibility to elect to hold future Unitholder meetings electronically and to permit voting at meetings of Unitholders by means of telephonic, electronic or other communication facilities.

**13. Why are Unitholders being asked to adopt the EIP?**

The purpose of the EIP is to provide officers and key employees of SmartCentres and its related entities with the opportunity to acquire “Performance Units” to allow them to participate in the long-term success of SmartCentres and to promote a greater alignment of their compensation with the interests of Unitholders. As awards under the EIP may be settled in Units issued from treasury, awards can have a longer combined performance and vesting period than the three-year period under SmartCentres’ current long-term incentive plan, further promoting retention and longer-term value creation (all as more particularly described in “Particulars of Matters to be Acted Upon – EIP”). The Board intends to replace the LTIP with the EIP for future years, if the EIP is approved by a majority of Unitholders at the meeting.

**14. What is an advisory say-on-pay vote?**

The advisory vote on say-on-pay is provided to allow Unitholders to show their approval or disapproval of SmartCentres’ executive compensation policies which are described in detail in the accompanying management information circular. An advisory vote is non-binding on SmartCentres and it remains the duty of the Board of Trustees and the Corporate Governance and Compensation Committee of SmartCentres to develop and implement appropriate executive compensation policies for SmartCentres. The Corporate Governance and Compensation Committee will take into account the results of the vote when considering future executive compensation arrangements. At SmartCentres’ meeting of Unitholders held on May 31, 2019, Unitholders holding over 96% of the votes cast at the meeting voted in favour of SmartCentres’ approach to executive compensation.

**15. How do unitholders vote?**

If you are a “non-registered” Unitholder because your units and/or special voting units are not registered in your name but are instead registered in the name of Canadian Depository for Securities Limited, CDS Clearing and Depository Services Inc., CDS INC., CDS Innovations Inc. or their affiliates, or in the name of an intermediary that you deal with in respect of your units and/or special voting units (which may include banks, trust companies, securities dealers or brokers and trustees or administrators of self-administered registered retirement savings plans, registered retirement income funds, registered education savings plans, tax-free savings accounts and similar plans), SmartCentres has elected to send you copies of the notice of the meeting, the accompanying management information circular and the voting instruction form (collectively, the “**meeting materials**”) indirectly through intermediaries.

Intermediaries will frequently use service companies to forward the meeting materials to non-registered Unitholders. Generally, a non-registered Unitholder who has not waived the right to receive meeting materials will be given a voting instruction form by the intermediary, which, when properly completed and signed by the non-registered Unitholder and returned to the intermediary or its service company (as directed in such voting instruction form), will constitute voting instructions which the intermediary must follow.

Non-registered Unitholders are kindly asked to return their voting instructions as specified in the voting instruction form. You are encouraged to provide your voting instructions online or by telephone if your intermediary provides you with this option. Non-registered Unitholders who are completing, signing and delivering voting instruction forms should note that those forms specify mandatory delivery dates which generally occur before the deadline that registered Unitholders must deliver completed forms of proxy. You should contact your broker or intermediary for further details. SmartCentres may use the Broadridge QuickVote™ service to assist non-registered Unitholders with voting their units and/or special voting units over the telephone. Alternatively, Kingsdale Advisors may contact such non-registered Unitholders to assist them with conveniently voting their units directly over the phone.

If you are a registered Unitholder, or if you are a non-registered Unitholder who wishes to appoint and register yourself or a third party as proxyholder to attend and vote at the meeting, please refer to the sections entitled “Solicitation of Proxies and Voting at the Meeting - Voting at the Meeting” and “Solicitation of Proxies and Voting at the Meeting - Appointment, Registration and Revocation of Proxies” in the accompanying management information circular for further instructions on how to appoint and register a proxyholder and vote.

**If you have any questions or require assistance voting, you may contact our strategic unitholder advisor and proxy solicitation agent, Kingsdale Advisors, by telephone at 1-888-694-4330 within North America, (+1-416-867-2272 for collect calls outside North America) or by email at [contactus@kingsdaleadvisors.com](mailto:contactus@kingsdaleadvisors.com).**

**SMARTCENTRES REAL ESTATE INVESTMENT TRUST  
MANAGEMENT INFORMATION CIRCULAR  
For the Annual General and Special Meeting of Unitholders to be held on December 9, 2020**

**MEANING OF CERTAIN REFERENCES**

References to “**SmartCentres**” and “**we**” in this management information circular refer to SmartCentres Real Estate Investment Trust. References to the “**Board**” means the Board of Trustees of SmartCentres and to “**Trustees**” means the Trustees of SmartCentres.

In addition, references to “**Units**” means Variable Voting Units of SmartCentres, to “**Special Voting Units**” means the Special Voting Units of SmartCentres and to “**Voting Units**” means the Special Voting Units and Units. “**Unitholders**” means the holders of Units and Special Voting Units.

All dollar amounts in this management information circular are expressed in Canadian dollars.

**SOLICITATION OF PROXIES AND VOTING AT THE MEETING**

**Solicitation of Proxies**

This management information circular (the “**Circular**”) is furnished in connection with the solicitation of proxies by the management of SmartCentres to be used at the annual general and special meeting of Unitholders (the “**Meeting**”) to be held in a virtual only format on December 9, 2020 at 11:00 a.m. (Toronto time) via live audio webcast online at <https://web.lumiagm.com/259164587> and at any adjournment thereof, for the purposes set forth in the enclosed notice of meeting. Given the ongoing uncertainty surrounding the coronavirus (COVID-19) pandemic, and in order to mitigate the risks to the health and safety of our communities, Unitholders, employees and other stakeholders, the Board of Trustees has elected to hold this year’s meeting in a virtual only format.

Solicitations of proxies will be primarily by mail, but may also be by newspaper publication, in person or by telephone, telecopy or oral communication by Trustees, officers, employees or agents of SmartCentres who may be specifically remunerated for such solicitations. All costs of the solicitation will be borne by SmartCentres. The information contained herein is given as of October 26, 2020 unless otherwise specified.

Kingsdale Advisors has been retained by SmartCentres as our strategic unitholder advisor and proxy solicitation agent in connection with the solicitation of proxies for the Meeting. SmartCentres will pay Kingsdale Advisors a fee of approximately \$40,000, plus reasonable out-of-pocket expenses, for these services.

**Voting at the Meeting**

If you have any questions or require assistance voting, you may contact our strategic unitholder advisor and proxy solicitation agent, Kingsdale Advisors, by telephone at 1-888-694-4330 within North America, (+1-416-867-2272 for collect calls outside North America) or by email at [contactus@kingsdaleadvisors.com](mailto:contactus@kingsdaleadvisors.com).

*Who may Vote at the Meeting*

Registered Unitholders of record as at the close of business on October 26, 2020 (the “**Record Date**”) are entitled to receive notice of, attend and vote at the Meeting. **Only registered Unitholders or duly appointed proxyholders are permitted to attend and vote at the Meeting.**

Non-registered Unitholders (“**Non-Registered Holders**”) who beneficially own units through an intermediary but have not duly appointed themselves as proxyholder will not be able to vote or submit questions at the Meeting but will be able to attend as a guest.

If you are a Non-Registered Holder who received a voting instruction form and wish to vote at the Meeting (or wish to appoint someone else to vote at the Meeting on your behalf), you must insert the name of your desired proxyholder in the space provided on the voting instruction form and subsequently appoint and register yourself (or such other person) as proxyholder. In doing so you must follow all of the applicable instructions, including the deadline, provided by your intermediary. See “ – Appointment, Registration and Revocation of Proxies” below for more information.

You may also vote before the Meeting by completing your form of proxy or voting instruction form in accordance with the instructions provided therein. Registered Unitholders may also vote in advance at [www.investorvote.com](http://www.investorvote.com) or via telephone at 1-866-732-VOTE (8683).

### **Regarding Non-Registered Holders**

**Most Unitholders are Non-Registered Holders because the Voting Units they own are not registered in their names but are instead registered in the name of the brokerage firm, bank or trust company through which they purchased the Voting Units.** A person is a Non-Registered Holder in respect of Voting Units which are held on behalf of that person but which are registered either in the name of: (i) an intermediary (an “**Intermediary**”) that a Non-Registered Holder deals with in respect of its Voting Units (which may include banks, trust companies, securities dealers or brokers and trustees or administrators of self-administered registered retirement savings plans, registered retirement income funds, registered education savings plans, tax-free savings accounts and similar plans), or (ii) a clearing agency such as the Canadian Depository for Securities Limited, CDS Clearing and Depository Services Inc., CDS INC., CDS Innovations Inc. and their affiliates (collectively “**CDS**”), of which the Intermediary is a participant.

In accordance with the requirements of National Instrument 54-101 – *Communication with Beneficial Owners of Securities of a Reporting Issuer*, SmartCentres has elected to send copies of the meeting materials indirectly through Intermediaries to the non-objecting Non-Registered Holders. SmartCentres will pay all costs associated with the sending of the notice of meeting and the voting instruction form by the Intermediary to the Non-Registered Holders.

Intermediaries will frequently use service companies to forward the meeting materials to Non-Registered Holders. Generally, a Non-Registered Holder who has not waived the right to receive meeting materials will be given a voting instruction form by the Intermediary, which, when properly completed and signed by the Non-Registered Holder and returned to the Intermediary or its service company (as directed in such voting instruction form), will constitute voting instructions which the Intermediary must follow.

Non-Registered Holders are kindly asked to return their voting instructions as specified in the voting instruction form.

Voting instruction forms should be completed and returned in accordance with the specific instructions noted on them. The purpose of this procedure is to permit Non-Registered Holders to direct the voting of the Voting Units which they beneficially own.

Non-Registered Holders should return their voting instructions as specified in the voting instruction form. Non-Registered Holders should carefully follow the instructions set out in the voting instruction form, including those regarding when and where the voting instruction form is to be delivered.

If you are a Non-Registered Holder and wish to vote at the Meeting (or wish to appoint someone else to vote at the Meeting on your behalf), see “ – Appointment, Registration and Revocation of Proxies” below for more information.

#### *How to Vote at the Meeting*

The Meeting will be held in a virtual only format via live audio webcast. Unitholders will not be able to attend the Meeting in person.

Registered Unitholders and duly appointed proxyholders, including Non-Registered Holders who have duly appointed themselves as proxyholder, can log into the Meeting as set out below. Attending the Meeting online enables Registered Unitholders and duly appointed proxyholders to participate at the Meeting and submit questions. If desired, registered Unitholders and duly appointed proxyholders can vote at the appropriate times during the Meeting.

Guests, including Non-Registered Holders who have not duly appointed themselves as proxyholder, can log into the Meeting as set out below but are not able to vote or submit questions during the Meeting.

- Login online at <https://web.lumiagm.com/259164587>. It is recommended that you login at least 15 minutes before the Meeting starts.
- If you are a registered Unitholder or duly appointed proxyholder, including a Non-Registered Holder who has appointed and registered yourself as proxyholder, click “**I have a login**” and then enter your 15-digit Control Number or Username, as applicable (see below) and Password “smart2020” (case sensitive).

**OR**

- If you are a Non-Registered Holder who has not appointed and registered yourself as proxyholder, click “**I am a guest**” and then complete the online form.

#### *Control Numbers and Usernames*

**Registered Unitholders:** Your Control Number is the control number located on the form of proxy or in the email notification you received.

**Duly appointed proxyholders:** Computershare will provide each proxyholder with a Username by email after the proxy voting deadline has passed and the proxyholder has been duly appointed AND registered as described in “Appointment, Registration and Revocation of Proxies” below.

If you attend the Meeting online, it is important that you are connected to the internet at all times during the Meeting in order to vote when voting commences during the Meeting. It is your responsibility to ensure connectivity for the duration of the Meeting. You should allow ample time to check into the Meeting online and complete the related procedure.

#### **Appointment, Registration and Revocation of Proxies**

The following applies to Unitholders who wish to appoint and register someone as their proxyholder other than the SmartCentres proxyholders named in the form of proxy or voting instruction form. This includes Non-Registered Holders who wish to appoint and register themselves or a third party as proxyholder to attend, participate or vote at the Meeting.

**Unitholders who wish to appoint and register someone other than the SmartCentres proxyholders as their proxyholder to attend and participate at the Meeting as their proxy and vote their Units must submit their form of proxy or voting instruction form, as applicable, appointing that person as proxyholder and register that proxyholder online, as described below. Registering the proxyholder is an additional step to be completed AFTER the Unitholder has submitted the completed form of proxy or voting instruction form. Failure to register the proxyholder will result in the proxyholder not receiving a Username that is required to vote at the Meeting.**

#### *Step 1: Appointing your Proxyholder*

##### *Registered Unitholders*

If you are a registered Unitholder, you will have received a form of proxy with the notice of meeting. The persons named in the form of proxy are Trustees or officers of SmartCentres. **A registered Unitholder desiring to appoint a person (who need not be a Unitholder) to represent such Unitholder at the Meeting other than the persons designated in the form of proxy may do so either by inserting such person’s name in the blank space provided in the form of proxy and sending or delivering the completed form of proxy to the Chief Financial Officer of SmartCentres. To be effective:**

- (a) **a form of proxy submitted by a registered holder of Units must be received by the Chief Financial Officer of SmartCentres, c/o Computershare Trust Company of Canada, 100 University Avenue, 8th Floor, Toronto, Ontario M5J 2Y1; and**
- (b) **a form of proxy submitted by a registered holder of Special Voting Units must be received by the Chief Financial Officer of SmartCentres at the head office of SmartCentres located at 3200 Highway 7, Vaughan, Ontario L4K 5Z5,**

**in each case by 11:00 a.m. (Toronto time) on December 7, 2020, or at least 48 hours (excluding Saturdays, Sundays and holidays) prior to any adjournment or postponement of the Meeting. The Chairman of the Meeting will have the discretion to accept or reject proxies deposited in any other manner, including waiving the time limit for deposit of proxies without notice. Failure to so deposit a form of proxy shall result in its invalidation. This first step must be completed prior to registering such proxyholder online, which is an additional and required second step outlined in “Step 2: Registering Your Proxyholder” below.**

### *Non-Registered Holders*

If you are a Non-Registered Holder who received a voting instruction form and, instead of completing and returning such voting instruction form in order to vote, wish to vote at the Meeting (or wish to appoint someone else to vote at the Meeting on your behalf), you must insert the name of your desired proxyholder in the space provided on the voting instruction form and subsequently appoint and register yourself (or such other person) as proxyholder. In doing so you must follow all of the applicable instructions, including the deadline, provided by your intermediary. In some cases, your intermediary may send you additional documentation that must be completed in order for you (or such other person) to vote at the Meeting.

#### *Step 2: Registering your Proxyholder*

To register a third-party proxyholder, a Unitholder (including a Non-Registered Holder who has appointed themselves or a third party as proxyholder) must visit <http://www.computershare.com/SmartCentres> no later than 11:00 a.m. on December 7, 2020 (or at least 48 hours, excluding Saturdays, Sundays and holidays, prior to any adjournment or postponement of the Meeting) and provide Computershare with the required proxyholder contact information so that Computershare may provide the proxyholder with a Username via email. **Registering the proxyholder is an additional step to be completed AFTER the Unitholder has submitted the completed form of proxy or voting instruction form. Without a Username, a proxyholder will not be able to vote at the Meeting but will be able to participate as a guest.**

#### *Revocation of Proxies*

##### *Registered Unitholders*

**A registered Unitholder who has given a form of proxy may revoke it as to any matter on which a vote has not already been held pursuant to its authority by an instrument in writing executed by such Unitholder or by his or her attorney duly authorized in writing or, if the registered Unitholder is a corporation, by an officer or attorney thereof duly authorized, and deposited either at the abovementioned office of Computershare Trust Company of Canada on or before the last business day preceding the day of the Meeting or any adjournment thereof. If you have followed the process for attending and voting at the Meeting online, voting at the Meeting will revoke your previous proxy.**

##### *Non-Registered Holders*

Non-Registered Holders should contact their intermediary to find out how to change or revoke voting instructions and for information regarding timing requirements or for other voting questions. Intermediaries may set deadlines for the receipt of revocation notices that are farther in advance of the Meeting than those set out above and, accordingly, any such revocation should be completed well in advance of the deadline prescribed in the form of proxy or voting instruction form to ensure it is given effect at the Meeting.

#### **Signature of Proxy**

A form of proxy must be executed by the registered Unitholder or his or her attorney authorized in writing or, if such Unitholder is a corporation, the form of proxy should be signed in its corporate name under its corporate seal by an authorized officer whose title should be indicated. A form of proxy signed by a person acting as attorney or in some other representative capacity should reflect such person's capacity following his or her signature and should be accompanied by the appropriate instrument evidencing qualification and authority to act (unless such instrument has been previously filed with SmartCentres).

#### **Voting of Proxies**

The persons named in the form of proxy will vote the Voting Units in respect of which they are appointed in accordance with the direction of the Unitholder appointing them. **In the absence of such direction, such Voting Units will be voted in favour of the following resolutions:**

- 1. Electing the persons named as proposed Trustees in this Circular as Trustees of SmartCentres for the ensuing year;**



2. **Re-appointing PricewaterhouseCoopers LLP, Chartered Professional Accountants, as the auditor of SmartCentres for the ensuing year and authorizing the Trustees to fix the remuneration of the auditor;**
3. **Accepting SmartCentres' approach to executive compensation, as more particularly set forth in this Circular;**
4. **Approving certain amendments to SmartCentres' declaration of trust (the "Declaration of Trust") to extend the term of the voting top-up right held by Mr. Mitchell Goldhar and to clarify other governance rights, all as more particularly set forth in this Circular;**
5. **Approving certain amendments to the Declaration of Trust related to SmartCentres' investment guidelines and operating policies and the composition of its investment committee, all as more particularly set forth in this Circular;**
6. **Approving certain amendments to the Declaration of Trust to permit meetings of Unitholders to be held electronically and to permit voting at Unitholder meetings by means of telephonic, electronic or other communication facilities and to address other administrative matters, as more particularly set forth in this Circular; and**
7. **Approving the adoption of a new equity incentive plan which provides for a maximum of 3,000,000 Units reserved for issuance thereunder and which contemplates that awards may be settled in Units issued from treasury or in cash at the participant's election, as more particularly set forth in this Circular.**

If you have any questions or require assistance voting, you may contact our strategic unitholder advisor and proxy solicitation agent, Kingsdale Advisors, by telephone at 1-888-694-4330 within North America, (+1-416-867-2272 for collect calls outside North America) or by email at [contactus@kingsdaleadvisors.com](mailto:contactus@kingsdaleadvisors.com).

#### **Exercise of Discretion of Proxy**

**The form of proxy confers discretionary authority upon the persons named therein with respect to amendments or variations to matters identified in the accompanying notice of meeting and the Circular and with respect to other matters that may properly come before the Meeting.** At the date of the Circular, management of SmartCentres knows of no amendments, variations or other matters to come before the Meeting other than the matters referred to in the notice of meeting.

#### **Advance Notice Policy**

SmartCentres has implemented a policy requiring advance notice to be given to SmartCentres of Unitholder proposals relating to the nomination of Trustees (the "**Advance Notice Policy**"). The Advance Notice Policy requires a nominating Unitholder to provide notice to the Trustees of proposed Trustee nominations not less than 30 days prior to the date of the applicable annual meeting (being not later than November 9, 2020 for purposes of the Meeting). This advance notice period is intended to give SmartCentres and its Unitholders sufficient time to consider any proposed nominees. A copy of the Declaration of Trust, which sets out SmartCentres' Advance Notice Policy, may be viewed under the Trust's profile on SEDAR at [www.sedar.com](http://www.sedar.com).

#### **Unitholder Proposals**

The Declaration of Trust provides for the ability of an eligible Unitholder (meeting certain specified criteria) to submit a proposal for consideration at an annual meeting of SmartCentres (other than proposals with respect to the nomination of Trustees which must follow the provisions of the Advance Notice Policy referred to above). The final date for submission of proposals by Unitholders for inclusion in the circular in connection with next year's annual meeting of Unitholders is February 1, 2021.

## INFORMATION RESPECTING SMARTCENTRES REAL ESTATE INVESTMENT TRUST

### General

SmartCentres is an unincorporated “open-end” real estate investment trust constituted in accordance with the laws of the Province of Alberta pursuant to a declaration of trust (the “**Declaration of Trust**”). SmartCentres is focused on the development and ownership of high quality retail properties and is also pursuing mixed-use development and intensification opportunities including residential, retirement homes, office and self-storage primarily on properties already owned by SmartCentres and supplemented by further strategic acquisitions with existing and new partners. The principal and head office of SmartCentres is located at 3200 Highway 7, Vaughan, Ontario L4K 5Z5.

### Meetings of Unitholders

The Declaration of Trust provides that meetings of Unitholders must be called and held for, among other matters, the election or removal of Trustees (except filling casual vacancies), the appointment or removal of the auditors of SmartCentres, the approval of amendments to the Declaration of Trust, an increase or decrease in the number of Trustees, the sale of the assets of SmartCentres in its entirety or substantially in its entirety (other than as part of an internal reorganization) or the termination of SmartCentres.

Registered Unitholders may attend and vote at all meetings of Unitholders either in person or by proxy and a proxyholder need not be a Unitholder. Two persons present in person or represented by proxy and representing in the aggregate not less than 25% of the votes attaching to all outstanding Voting Units shall constitute a quorum for the transaction of business at all such meetings.

### Authorized Capital

The Declaration of Trust authorizes the issuance of an unlimited number of two classes of units: Units and Special Voting Units.

As of the Record Date, SmartCentres had 144,617,832 Units and 27,593,847 Special Voting Units (not including the Additional Special Voting Units, as defined below) outstanding for a total of 172,211,679 outstanding Voting Units (not including the Additional Special Voting Units).

SmartCentres had 8,241,544 Additional Special Voting Units outstanding as of the Record Date that were issued pursuant to the Voting Top-Up Right prior to its expiry on July 1, 2020 and are held by (i) Mitchell Goldhar, (ii) any heir, executor, administrator or legal representative of Mitchell Goldhar; (iii) any individual who is the child, spouse, common law spouse, father, mother, brother, sister, niece or nephew of Mitchell Goldhar, or is married to any such individual; (iv) any trust in respect of which all of the beneficiaries shall be solely one or more of those persons referred to in clause (iii); (v) any combination of persons referred to in clauses (i), (ii), (iii) or (iv); and (vi) any person who is controlled by any person referred to in clauses (i), (ii), (iii) or (iv) or any combination thereof (collectively, the “**MG Entities**”). The Voting Top-Up Right is described in more detail below.

Limited partnership subsidiaries of SmartCentres have issued 27,593,847 securities that are convertible or exchangeable directly for Units without the payment of additional consideration (“**Exchangeable Securities**”), including Class B limited partnership units (“**Class B LP Units**”) and Class D limited partnership units (“**Class D LP Units**”). Such Exchangeable Securities are economically equivalent to Units as they are entitled to distributions equal to those on the Units and are exchangeable for Units on a one-for-one basis. The issue of a Class B LP Unit and Class D LP Unit is accompanied by a Special Voting Unit that entitles the holder to vote at meetings of Unitholders, as described in more detail below.

### Units

An unlimited number of Units may be created and issued pursuant to the Declaration of Trust. Each Unit represents an equal fractional undivided beneficial interest in any distributions from SmartCentres, and in the net assets of SmartCentres in the event of termination or winding-up of SmartCentres. All Units are of the same class with equal rights and privileges, subject to the Voting Top-Up Right described below if approved by Unitholders. Each Unit is transferable, entitles the holder thereof to participate equally in distributions, including the distributions of net income and net realized capital gains of SmartCentres and distributions on liquidation, is fully paid and non-assessable and entitles the holder thereof to one vote at all meetings of Unitholders for each Unit held.

## Special Voting Units

An unlimited number of Special Voting Units may be created and issued pursuant to the Declaration of Trust. Other than Additional Special Voting Units issued pursuant to the Voting Top-Up Right (described below), Special Voting Units shall only be issued by SmartCentres from time to time in connection with or in relation to Exchangeable Securities on such terms and conditions as may be determined by the Trustees. Each Special Voting Unit shall entitle the holder of a Special Voting Unit to such number of votes at meetings of Unitholders as is equal to (i) the number of Units into which the Exchangeable Security to which such Special Voting Unit relates (other than an Exchangeable Security owned by SmartCentres or any subsidiary of SmartCentres) is then exchangeable or convertible for or (ii) in the case of an Additional Special Voting Unit, the number of votes that are eligible to be cast in respect of one Unit. For greater certainty, holders of Special Voting Units shall not be entitled, by virtue of their holding of Special Voting Units, to distributions of any nature whatsoever from SmartCentres nor shall they have any beneficial interest in any assets of SmartCentres on termination or winding up of SmartCentres. Special Voting Units are not separately transferable from the Exchangeable Security to which they relate and are automatically redeemed and cancelled upon the exercise or conversion of such Exchangeable Security.

If in any given 365 day period prior to July 1, 2020, the average weighted aggregate number of Special Voting Units plus Units held or controlled by Mitchell Goldhar (while he remains alive) or the MG Entities (if Mitchell Goldhar is not alive) (not including any Additional Special Voting Units issued to the MG Entities pursuant to the Voting Top-Up Right) was equal to or greater than the lesser of (i) 20% of the aggregate issued and outstanding Units plus Special Voting Units and (ii) 20,000,000 Units plus Special Voting Units, provided that such securities represent no less than 10% of the voting rights attached to all of the issued and outstanding Units and Special Voting Units, then so long as Mr. Mitchell Goldhar or another individual designated by (x) Mitchell Goldhar or his designee (while he remains alive) or (y) a designee of the MG Entities (if Mitchell Goldhar is not alive) (the “**MG Entities Representative**”) remained a Trustee and the MG Entities directly or indirectly beneficially owned or controlled less than 25% of the voting rights attached to all voting securities of SmartCentres, SmartCentres was required to issue such number of additional Special Voting Units (“**Additional Special Voting Units**”) which entitled Mitchell Goldhar (while he remains alive) or the MG Entities (if Mitchell Goldhar is not alive) to cast 25% of the votes eligible to be cast at a meeting of the holders of Voting Units (the “**Voting Top-Up Right**”). The MG Entities’ right to be issued further Additional Special Voting Units under the Voting Top-Up Right expired on July 1, 2020 and the approval of its extension (and corresponding increase to the alternative ownership threshold) is one of the matters Unitholders are being asked to vote upon at the Meeting (see “Particulars of Matters to be Acted Upon – Amendments to Declaration of Trust – MG Amendments”).

Mitchell Goldhar beneficially owned or controlled 25% of the Voting Units as of the Record Date (including all previously issued and outstanding Additional Special Voting Units).

## Principal Unitholders

To the knowledge of SmartCentres, as at October 26, 2020, no person or company beneficially owned, directly or indirectly, or exercised control or direction over, voting securities of SmartCentres carrying more than 10% of the voting rights attached to any class of voting securities of SmartCentres except as set out below:

Voting Unitholder and Municipality of Residence	Type of Ownership	Units		Special Voting Units <sup>(2)</sup>		Voting Units	
		Number	Percentage	Number	Percentage	Number	Percentage
Mitchell Goldhar <sup>(1)</sup> Vaughan, ON	Beneficial	15,002,063	10.4%	30,111,243	84.0%	45,113,306	25.0%

Notes:

- (1) These Voting Units are held by companies owned by Mitchell Goldhar.
- (2) Mitchell Goldhar’s companies own 21,869,699 Class B LP Units with which such Special Voting Units are associated and that are exchangeable on a one-for-one basis for Units (subject to any anti-dilution adjustments). The total number of Special Voting Units also includes 8,241,544 Additional Special Voting Units issued to the MG Entities pursuant to the Voting Top-Up Right prior to July 1, 2020. See “Information Respecting SmartCentres Real Estate Investment Trust – Special Voting Units”.

## TRUSTEES

### Nominees for Election to the Board of Trustees

The following is a summary of relevant biographical and compensation information with respect to each of the individuals to be nominated for election as a Trustee of SmartCentres at the Meeting or to be appointed by the MG Entities upon the conclusion of the Meeting (see “Particulars of Matters to be Acted Upon – Election of Trustees”).



**MITCHELL GOLDHAR**

Age: 59  
Ontario, Canada

*Trustee since 2005, Executive Chairman effective February 14, 2018*

**NOT INDEPENDENT<sup>(1)</sup>**

**Areas of Expertise:**

- Real estate
- Financial
- Property development
- Retail
- Legal
- Investment

**Principal Occupation**

Mitchell Goldhar is a Canadian businessman and the founder of SmartCentres. Mr. Goldhar has 37 years of real estate development and operational experience and has developed over 60 million square feet of retail, residential, office and self-storage. He started SmartCentres in 1989 with the belief that Canadians deserve convenient access to affordable retail. With a shared vision, he worked to help Walmart enter the Canadian market, which they did in 1994. Mr. Goldhar is also the sole owner of the Penguin Group of Companies, Penguin PickUp, Revival Film Studios, Cleavelands House Resort in Muskoka and Maccabi Tel Aviv Football Club.

Mr. Goldhar holds a BA in Political Science from York University and has been an Adjunct Professor at the University of Toronto’s Rotman School of Management since 2004. He is a member of the Board of Onex Corporation, Indigo Books and Music, the Canadian Concussion Centre at Toronto General Hospital and is Director Emeritus with the SickKids Foundation. Mr. Goldhar has been SmartCentres largest unitholder since 2003 and has been a SmartCentres Trustee since 2005. From May 2015 to February 2018 Mr. Goldhar was the Non-executive Chairman of the Board of Trustees and has been the Executive Chairman of the Board of Trustees since February 2018.

**Other Public Board Memberships**

Onex Corporation  
Indigo Books & Music Inc.  
No interlocking outside public company directorships

Board/Committee Memberships	Attendance at Regular Meetings	Attendance at Special Meetings	Overall Attendance
Board (Chairman)	4/4	1/3 <sup>(2)</sup>	81%
Investment Committee	4/4	n/a	

**Securities Beneficially Owned or Controlled as at October 26, 2020**


<u>Voting Units</u>		<u>Deferred Units</u>		<u>Total Units</u>		<u>Unit Ownership Requirement<sup>(6)</sup></u>	
Number <sup>(3)</sup>	Market Value <sup>(4)</sup>	Number	Market Value <sup>(5)</sup>	Number	Market Value	Minimum Ownership Requirement	Complies with Minimum Ownership Requirement
45,113,306	\$787,212,119	96,878	\$2,068,345	45,210,184	\$789,280,464	\$750,000	Yes (1,052.4 times requirement)

**Voting Results of 2019 Annual General Meeting**

Mr. Goldhar was appointed as a Trustee by the MG Entities pursuant to their rights under the Declaration of Trust.

Notes:

- (1) Mr. Goldhar owns companies which are parties to an amended and restated governance and investor rights agreement (the “**Governance and Investor Rights Agreement**”), a development services agreement, the Original Penguin Services Agreement (see “Executive Compensation – 2019 Compensation for the Named Executive Officers – Penguin Services Agreement”, below), a trade-mark licence agreement, and various other agreements with SmartCentres and its subsidiaries that are significant to SmartCentres. Mr. Goldhar is also a senior officer of SmartCentres. He is therefore not considered to be an independent Trustee under National Instrument 58-101 – *Disclosure of Corporate Governance Practices* (“**NI 58-101**”). See “Trustees – Independence”.
- (2) Because of the subject matter, Mr. Goldhar recused himself from one of these meetings.
- (3) This amount includes 15,002,063 Units, 21,869,699 Special Voting Units and 8,241,544 Additional Special Voting Units beneficially owned or controlled by Mr. Goldhar. Mr. Goldhar beneficially owns or controls 21,869,699 Class B LP Units that are associated with the Special Voting Units and are exchangeable into Units.
- (4) This amount was determined by multiplying the number of Voting Units (other than Additional Special Voting Units) held by Mr. Goldhar by the closing price of the Units on the Toronto Stock Exchange (the “**TSX**”) on October 26, 2020. For these purposes, it has been assumed that Special Voting Units (other than Additional Special Voting Units) beneficially owned or controlled by Mr. Goldhar have a value equal to the value of the underlying Exchangeable Securities for which such Special Voting Units have been issued and it has been assumed that such Exchangeable Securities have a value equal to the value of the Units for which they may be exchanged. It has further been assumed that the Additional Special Voting Units have a value of \$nil as they are not coupled with any Exchangeable Securities.
- (5) This amount was determined by multiplying the aggregate number of deferred units of SmartCentres (“**Deferred Units**”) held by Mr. Goldhar by the closing price of the Units on the TSX on October 26, 2020.
- (6) See “Corporate Governance – Alignment of Interests with Unitholders – Minimum Unit Ownership by the Executive Chairman”.

 <p><b>PETER FORDE, CPA, CA</b> Age: 65 Ontario, Canada</p> <p><i>Trustee since 2019, President and Chief Executive Officer since July 1, 2018</i></p> <p><b>NOT INDEPENDENT<sup>(1)</sup></b></p> <p><b>Areas of Expertise:</b></p> <ul style="list-style-type: none"> <li>• Real estate</li> <li>• Financial</li> <li>• Property development</li> <li>• Retail</li> </ul>	<b>Principal Occupation</b>						
	<p>President and Chief Executive Officer of SmartCentres since July 1, 2018, President of SmartCentres since August 2016 and Chief Operating Officer of SmartCentres from May 28, 2015 to July 1, 2018. Chief Operating Officer of the Penguin group of companies from September 2005 to May 2015. Executive Vice President Finance and Administration of the Penguin group of companies from 1998 to September 2005, Vice President and Chief Financial Officer of Nexacor Realty Management Inc. (real estate subsidiary of Bell Canada) from January 1996 to February 1998. Mr. Forde is a Chartered Professional Accountant and has a Bachelor of Business Administration degree from York University (1977). Trustee of SmartCentres since May 31, 2019 and from July 8, 2005 to May 27, 2015.</p>						
	<b>Other Public Board Memberships</b>						
None. No interlocking outside public company directorships							
<b>Board/Committee Memberships</b>		<b>Attendance at Regular Meetings</b>	<b>Attendance at Special Meetings</b>	<b>Overall Attendance</b>			
Board		4/4	3/3	100%			
<b>Securities Beneficially Owned or Controlled as at October 26, 2020</b>							
<b>Voting Units</b>		<b>Deferred Units</b>		<b>Total Units</b>		<b>Unit Ownership Requirement<sup>(5)</sup></b>	
Number	Market Value <sup>(2)</sup>	Number <sup>(3)</sup>	Market Value <sup>(4)</sup>	Number	Market Value	Minimum Ownership Requirement	Complies with Minimum Ownership Requirement
1,637	\$34,950	94,533	\$2,018,280	96,170	\$2,053,230	\$1,800,000	Yes (1.1 times requirement)
<b>Voting Results of 2019 Annual General Meeting</b>							
<b># Votes For</b>		<b>% Votes For</b>		<b># Votes Withheld</b>		<b>% Votes Withheld</b>	
130,995,813		96.05		5,387,804		3.95	

Notes:

- (1) Mr. Forde is the President and Chief Executive Officer of SmartCentres and is therefore not considered to be an independent Trustee under NI 58-101.
- (2) This amount was determined by multiplying the number of Voting Units held by Mr. Forde by the closing price of the Units on the TSX on October 26, 2020.
- (3) This amount includes both vested and unvested Deferred Units held by Mr. Forde pursuant to the Deferred Unit Plan. For further information, see "Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan".
- (4) This amount was determined by multiplying the aggregate number of Deferred Units held by Mr. Forde by the closing price of the Units on the TSX on October 26, 2020.
- (5) See "Corporate Governance – Alignment of Interests with Unitholders – Minimum Unit Ownership by the Chief Executive Officer".



**GARRY FOSTER, FCPA, FCA**

Age: 69

Ontario, Canada

*Trustee since 2013*

**INDEPENDENT**

**Areas of Expertise:**

- Real estate
- Financial
- Retail

**Principal Occupation**

Mr. Foster has been a Trustee since May 2013. He is a Corporate Director and is a results-oriented, business leader with extensive experience in board governance, and facilitating the growth and transformation of complex businesses. He currently sits on the boards of Real Matters Inc., where he chairs the Audit Committee; the Presto Fare Card sub-committee of Metrolinx, where he is the Chair of the committee; the Board of Directors of Payments Canada, where he is the Chair of the Audit and Finance Committee; and is a member of the Board of Directors of Ontario Health, where he chairs the Finance, Audit and Risk committee. Mr. Foster is the past Chair of Baycrest Health Sciences, the Baycrest Foundation and Cogniciti Inc, the commercialization arm of Baycrest Health Sciences.

Mr. Foster had a long career at Deloitte, where he led the Technology, Media and Telecommunications Practice and was Vice Chair of the firm. He sat on the boards of Deloitte Canada and Deloitte US. From 2013 to 2017, Mr. Foster served as the President and CEO of the Baycrest Foundation. He also served two elected terms on the Board of Directors of the Institute of Chartered Accountants of Ontario.

Mr. Foster received a MBA and BBA from the Schulich School of Business, is a Fellow of the Institute of Chartered Professional Accountants and received his ICD.D diploma from the Rotman School of Management.

**Other Public Board Memberships**

Real Matters Inc.  
No interlocking outside public company directorships

Board/Committee Memberships	Attendance at Regular Meetings	Attendance at Special Meetings	Overall Attendance
Board	4/4	3/3	100%
Investment Committee	4/4	n/a	
Audit Committee <sup>(1)</sup>	4/4	n/a	
Special Independent Committee <sup>(2)</sup>	9/9	n/a	

**Securities Beneficially Owned or Controlled as at October 26, 2020**


<u>Voting Units</u>		<u>Deferred Units</u>		<u>Total Units</u>		<u>Unit Ownership Requirement<sup>(5)</sup></u>	
Number	Market Value <sup>(3)</sup>	Number	Market Value <sup>(4)</sup>	Number	Market Value	Minimum Ownership Requirement	Complies with Minimum Ownership Requirement
1,870	\$39,925	77,919	\$1,663,571	79,789	\$1,703,495	\$180,000	Yes (9.5 times requirement)

**Voting Results of 2019 Annual General Meeting**

# Votes For	% Votes For	# Votes Withheld	% Votes Withheld
136,218,825	99.88	164,792	0.12

Notes:

- (1) Mr. Foster is the chair of the audit committee of SmartCentres (the “**Audit Committee**”).
- (2) Mr. Foster acted as the chair of the Special Independent Committee formed to consider certain ordinary course commercial related party transactions.
- (3) This amount was determined by multiplying the number of Voting Units held by Mr. Foster by the closing price of the Units on the TSX on October 26, 2020.
- (4) This amount was determined by multiplying the aggregate number of Deferred Units held by Mr. Foster by the closing price of the Units on the TSX on October 26, 2020.
- (5) See “Corporate Governance – Alignment of Interests with Unitholders – Minimum Unit Ownership by Trustees”.

 <p><b>GREGORY HOWARD</b> Age: 64 Ontario, Canada <i>Trustee since 2015</i> <b>NOT INDEPENDENT<sup>(1)</sup></b> <b>Areas of Expertise:</b></p> <ul style="list-style-type: none"> <li>• Real estate</li> <li>• Financial</li> <li>• Legal</li> <li>• Property development</li> </ul>	<b>Principal Occupation</b>						
	<p>Trustee of SmartCentres since July 2, 2015. Gregory Howard is a senior partner at Davies Ward Phillips &amp; Vineberg LLP, one of Canada's leading law firms, and is one of Canada's pre-eminent real estate lawyers. His wide-ranging expertise includes commercial real estate acquisitions and dispositions, joint ventures, development projects, project financing, commercial leasing, real estate investment trusts, private equity funds, workouts, strategic planning and corporate matters. He has been recognized as one of the country's leading real estate lawyers by Chambers Global, The Legal 500, Real Estate Law and numerous other sources. He obtained his LL.B. (with Honours) from the University of Toronto Faculty of Law in 1978 and was admitted to the Ontario Bar in 1980.</p>						
	<b>Other Public Board Memberships</b>						
None No interlocking outside public company directorships							
<b>Board/Committee Memberships</b>		<b>Attendance at Regular Meetings</b>	<b>Attendance at Special Meetings</b>	<b>Overall Attendance</b>			
Board		4/4	3/3	100%			
Investment Committee		4/4	n/a				
Corporate Governance and Compensation Committee		7/7	n/a				
<b>Securities Beneficially Owned or Controlled as at October 26, 2020</b>							
<b>Voting Units</b>		<b>Deferred Units</b>		<b>Total Units</b>		<b>Unit Ownership Requirement<sup>(3)</sup></b>	
Number	Market Value	Number	Market Value <sup>(2)</sup>	Number	Market Value	Minimum Ownership Requirement	Complies with Minimum Ownership Requirement
1,500	\$32,025	26,832	\$572,863	28,332	\$604,888	\$135,000	Yes (4.5 times requirement)
<b>Voting Results of 2019 Annual General Meeting</b>							
Mr. Howard was appointed as a Trustee by the MG Entities pursuant to their rights under the Declaration of Trust.							

Notes:

- (1) Mr. Howard is a partner at Davies Ward Phillips & Vineberg LLP, a law firm that provides legal services to SmartCentres and the MG Entities from time to time. He is also appointed to the Board by the MG Entities. Neither of these facts result in Mr. Howard not qualifying as independent under applicable securities laws for general purposes. However, under the TSX rules and the Institutional Shareholder Services guidelines, Mr. Howard may be considered not independent by virtue of his relationships to SmartCentres and the MG Entities. Accordingly, the Board has determined that Mr. Howard is not independent for the purposes of NI 58-101. See "Trustees – Independence".
- (2) This amount was determined by multiplying the aggregate number of Deferred Units held by Mr. Howard by the closing price of the Units on the TSX on October 26, 2020.
- (3) See "Corporate Governance – Alignment of Interests with Unitholders – Minimum Unit Ownership by Trustees".



**JAMIE MCVICAR, M.B.A., LL.B**

Age: 62

Alberta, Canada

*Trustee since 2001*

**INDEPENDENT**

**Areas of Expertise:**

- Real estate
- Financial
- Legal
- Property development

**Principal Occupation**

Chief Financial Officer then Vice President Finance and Administration at Devonian Properties Inc., a property development company, from October 2000 to October 2011. President of Newell Post Developments Ltd., a property development company, from June 1998 to June 2000. Legal counsel for Oxford Development Group, a property development company, from 1988 to June 1998. Mr. McVicar is currently a Director of Steel Reef Infrastructure Corp. Trustee of SmartCentres since December 4, 2001 and has served as a member of the Corporate Governance and Compensation Committee since 2002 and as a member of the Audit Committee since 2004. Mr. McVicar has a Bachelor of Commerce from the University of Alberta (1980), Bachelor of Laws from the University of Western Ontario (1981) and Master of Business Administration from the University of Toronto (1982).

**Other Public Board Memberships**

No interlocking outside public company directorships

<b>Board/Committee Memberships</b>	<b>Attendance at Regular Meetings</b>	<b>Attendance at Special Meetings</b>	<b>Overall Attendance</b>
Board	4/4	3/3	100%
Audit Committee	4/4	n/a	
Corporate Governance and Compensation Committee <sup>(1)</sup>	7/7	n/a	
Special Independent Committee <sup>(2)</sup>	9/9	n/a	

**Securities Beneficially Owned or Controlled as at October 26, 2020**

<b>Voting Units</b>		<b>Deferred Units</b>		<b>Total Units</b>		<b>Unit Ownership Requirement<sup>(5)</sup></b>	
Number	Market Value <sup>(3)</sup>	Number	Market Value <sup>(4)</sup>	Number	Market Value	Minimum Ownership Requirement	Complies with Minimum Ownership Requirement
20,000	\$427,000	93,086	\$1,987,386	113,086	\$2,414,386	\$172,500	Yes (14.0 times requirement)

**Voting Results of 2019 Annual General Meeting**

<b># Votes For</b>	<b>% Votes For</b>	<b># Votes Withheld</b>	<b>% Votes Withheld</b>
113,474,147	83.20	22,909,469	16.80

Notes:

- (1) Mr. McVicar is the chair of the corporate governance and compensation committee of SmartCentres (the “**Corporate Governance and Compensation Committee**”).
- (2) Mr. McVicar was a member of the Special Independent Committee formed to consider certain ordinary course commercial related party transactions.
- (3) This amount was determined by multiplying the number of Voting Units held by Mr. McVicar by the closing price of the Units on the TSX on October 26, 2020.
- (4) This amount was determined by multiplying the aggregate number of Deferred Units held by Mr. McVicar by the closing price of the Units on the TSX on October 26, 2020.
- (5) See “Corporate Governance – Alignment of Interests with Unitholders – Minimum Unit Ownership by Trustees”.





**SHARM POWELL**

Age: 56

Ontario, Canada

Trustee since 2019

**INDEPENDENT**

**Areas of Expertise:**

- Real estate
- Financial
- Investment
- Retail

**Principal Occupation**

Trustee of SmartCentres since May 31, 2019. Director, Real Estate Investments at Canada Pension Plan Investment Board (CPPIB) from 2010 to 2018 and was head of its Real Estate Investments team for Canada from 2012 to 2018 and head of CPPIB's Canada and US Retail Real Estate Investments from 2010 to 2016 and head of its US Multi Family (rental apartment) Real Estate Investments from 2011 to 2012. Ms. Powell worked for eight years on the National Investment Team (Toronto) at CB Richard Ellis and spent eight years at BMO Capital Markets in its investment banking group in Toronto, focusing primarily on public real estate companies and REITs. Prior to this, Ms. Powell worked at McLeanco Realty, a wholly-owned subsidiary of Deutsche Bank Securities, providing real estate advisory services to public and private institutional real estate clients. Ms. Powell holds a BA in Economics from the University of Western Ontario.

**Other Public Board Memberships**

None  
No interlocking outside public company directorships

Board/Committee Memberships		Attendance at Regular Meetings	Attendance at Special Meetings	Overall Attendance			
Board		3/3	3/3	100%			
Investment Committee		3/3	n/a				
Securities Beneficially Owned or Controlled as at October 26, 2020							
<u>Voting Units</u>		<u>Deferred Units</u>		<u>Total Units</u>		<u>Unit Ownership Requirement<sup>(3)</sup></u>	
Number	Market Value <sup>(1)</sup>	Number	Market Value <sup>(2)</sup>	Number	Market Value	Minimum Ownership Requirement	Complies with Minimum Ownership Requirement
0	\$0	3,016	\$64,392	3,016	\$64,392	\$78,750	In progress
Voting Results of 2019 Annual General Meeting							
# Votes For		% Votes For		# Votes Withheld		% Votes Withheld	
136,354,215		99.98		29,402		0.02	

Notes:

- (1) This amount was determined by multiplying the number of Voting Units held by Ms. Powell by the closing price of the Units on the TSX on October 26, 2020.
- (2) This amount was determined by multiplying the aggregate number of Deferred Units held by Ms. Powell by the closing price of the Units on the TSX on October 26, 2020.
- (3) Ms. Powell will have three years from the date of her appointment to meet the minimum unit ownership requirement. See "Corporate Governance – Alignment of Interests with Unitholders – Minimum Unit Ownership by Trustees".



**KEVIN PSHEBNISKI, LL.B**

Age: 58

Arizona, USA

*Trustee since 2001*

**INDEPENDENT**

**Areas of Expertise:**

- Real estate
- Financial
- Legal
- Property development

**Principal Occupation**

Chief Executive Officer of Hopewell Development LP since September 2016 and previously President and Chief Executive Officer of Hopewell Development Corporation, a property development company. Chief Operating Officer of Hopewell Development Corporation from September 1997 to September 1998. Vice President of Hopewell Group of Companies from January 1996 to September 1997. Trustee of SmartCentres since December 4, 2001 and has served on the Audit Committee since 2012. Mr. Pshebniski holds a Bachelor of Science (Geology Major) and a Bachelor of Laws from the University of Manitoba.

**Other Public Board Memberships**

None  
No interlocking outside public company directorships

Board/Committee Memberships		Attendance at Regular Meetings	Attendance at Special Meetings	Overall Attendance			
Board		4/4	3/3	100%			
Audit Committee		4/4	n/a				
Investment Committee		4/4	n/a				
Special Independent Committee <sup>(1)</sup>		9/9	n/a				
Securities Beneficially Owned or Controlled as at October 26, 2020							
<u>Voting Units</u>		<u>Deferred Units</u>		<u>Total Units</u>		<u>Unit Ownership Requirement<sup>(4)</sup></u>	
Number	Market Value <sup>(2)</sup>	Number	Market Value <sup>(3)</sup>	Number	Market Value	Minimum Ownership Requirement	Complies with Minimum Ownership Requirement
27,263	\$582,065	99,192	\$2,117,749	126,455	\$2,699,814	\$135,000	Yes (20.0 times requirement)
Voting Results of 2019 Annual General Meeting							
# Votes For		% Votes For		# Votes Withheld		% Votes Withheld	
125,788,127		92.23		10,595,489		7.77	

Notes:

- (1) Mr. Pshebniski was a member of the Special Independent Committee formed to consider certain ordinary course commercial related party transactions.
- (2) This amount was determined by multiplying the number of Voting Units held by Mr. Pshebniski by the closing price of the Units on the TSX on October 26, 2020.
- (3) This amount was determined by multiplying the aggregate number of Deferred Units held by Mr. Pshebniski by the closing price of the Units on the TSX on October 26, 2020.
- (4) See "Corporate Governance – Alignment of Interests with Unitholders – Minimum Unit Ownership by Trustees".



**MICHAEL YOUNG**

Age: 76  
Texas, USA

*Trustee since 2003, Lead Independent Trustee effective May 28, 2015*

**INDEPENDENT**

**Areas of Expertise:**

- Real estate
- Financial
- Investment

**Principal Occupation**

Trustee of SmartCentres since November 11, 2003, Chair of the Board from July 1, 2014 to May 28, 2015 and Lead Independent Trustee since May 28, 2015. Mr. Young is President of Quadrant Capital Partners Inc., a private equity firm in Dallas, Texas, which he founded in November 2003. From January 1994 to October 2003, Mr. Young served as Managing Director and Head of Real Estate Investment Banking for CIBC World Markets. Mr. Young was appointed Global Head of Real Estate for CIBC World Markets in 1997. He served on the board of directors of Acasta Enterprises, Inc. from June 2017 until his resignation in February 2018. Mr. Young was a trustee and Chairman of the board of Milestone Apartments REIT from March of 2013 until April 2017, when Milestone Apartments REIT completed a “going private” transaction with Starwood Capital Group as the purchaser. He was a director of Brookfield Residential Properties Inc. from March 2011 and a director of Brookfield Homes from 2007. On March 12, 2015 Brookfield Residential Properties completed a “going private” transaction with Brookfield Asset Management as the purchaser. He is Chairman of the Board of Dignitas International (U.S.). Mr. Young holds a Bachelors degree from the University of Western Ontario (1967). He is also a member of Canada’s Sports Hall of Fame.

**Other Public Board Memberships**

None  
No interlocking outside public company directorships

<b>Board/Committee Memberships</b>	<b>Attendance at Regular Meetings</b>	<b>Attendance at Special Meetings</b>	<b>Overall Attendance</b>
Board (Lead Independent Trustee)	4/4	3/3	100%
Investment Committee <sup>(1)</sup>	4/4	n/a	
Corporate Governance and Compensation Committee	7/7	n/a	
Special Independent Committee <sup>(2)</sup>	9/9	n/a	

**Securities Beneficially Owned or Controlled as at October 26, 2020**

<b><u>Voting Units</u></b>		<b><u>Deferred Units</u></b>		<b><u>Total Units</u></b>		<b><u>Unit Ownership Requirement</u><sup>(5)</sup></b>	
Number	Market Value <sup>(3)</sup>	Number	Market Value <sup>(4)</sup>	Number	Market Value	Minimum Ownership Requirement	Complies with Minimum Ownership Requirement
174,200	\$3,719,170	63,736	\$1,360,764	237,936	\$5,079,934	\$285,000	Yes (17.8 times requirement)

**Voting Results of 2019 Annual General Meeting**

<b># Votes For</b>	<b>% Votes For</b>	<b># Votes Withheld</b>	<b>% Votes Withheld</b>
115,550,011	84.72	20,883,605	15.28

Notes:

- (1) Mr. Young is the chair of the investment committee of SmartCentres (the “**Investment Committee**”).
- (2) Mr. Young was a member of the Special Independent Committee formed to consider certain ordinary course commercial related party transactions.
- (3) This amount was determined by multiplying the number of Voting Units held by Mr. Young by the closing price of the Units on the TSX on October 26, 2020.
- (4) This amount was determined by multiplying the aggregate number of Deferred Units held by Mr. Young by the closing price of the Units on the TSX on October 26, 2020.
- (5) See “Corporate Governance – Alignment of Interests with Unitholders – Minimum Unit Ownership by Trustees”.

## Cease Trade Orders, Bankruptcies, Penalties or Sanctions

To the best of the knowledge of the management of SmartCentres, no person who is a proposed Trustee of SmartCentres:

- (a) is, as at the date of the Circular, or has been, within 10 years before the date of the Circular, a director, chief executive officer or chief financial officer of any company (including SmartCentres) that,
  - (i) was subject to an order (as defined below) that was issued while the proposed Trustee was acting in the capacity as director, chief executive officer or chief financial officer; or
  - (ii) was subject to an order that was issued after the proposed Trustee ceased to be a director, chief executive officer or chief financial officer and which resulted from an event that occurred while that person was acting in the capacity as director, chief executive officer or chief financial officer; or
- (b) is, as at the date of the Circular, or has been within 10 years before the date of the Circular, a director or executive officer of any company (including SmartCentres) that, while that person was acting in that capacity, or within a year of that person ceasing to act in that capacity, became bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or was subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets; or
- (c) has, within the 10 years before the date of the Circular, become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency, or become subject to or instituted any proceedings, arrangement or compromise with creditors, or had a receiver, receiver manager or trustee appointed to hold the assets of the proposed Trustee.

For the purposes of (a) above, “**order**” means:

- (a) a cease trade order;
- (b) an order similar to a cease trade order; or
- (c) an order that denied the relevant company access to any exemption under securities legislation,

that was in effect for a period of more than 30 consecutive days.

## Independence

The principal factor underlying the determination of Trustee “independence” is whether a particular Trustee has a “material relationship” with SmartCentres which is a relationship which could be reasonably expected to interfere with the exercise of the Trustee’s independent judgement. Notwithstanding the foregoing, in the opinion of the Canadian Securities Administrators, as set out in NI 58-101, certain relationships are deemed to be “material relationships”. The following analysis has been based upon the definition of “material relationship” as set out in NI 58-101.

Mitchell Goldhar does not qualify as independent under NI 58-101 because he is a senior officer of SmartCentres and owns the Penguin group of companies, which has entered into service, licensing and development agreements that are material to SmartCentres.

Gregory Howard was appointed to the Board by the MG Entities effective July 2, 2015. Mr. Howard is a partner at Davies Ward Phillips & Vineberg LLP, a law firm that provides legal services to SmartCentres and the MG Entities from time to time. Neither of these facts result in Mr. Howard not qualifying as independent under applicable securities laws for general purposes. However, under the TSX rules and the Institutional Shareholder Services guidelines, Mr. Howard may be considered not independent by virtue of his relationships to SmartCentres and the MG Entities. Accordingly, the Board has determined that Mr. Howard is not independent for the purposes of NI 58-101.

As a senior officer of SmartCentres, Peter Forde is deemed not to be independent under NI 58-101.

## Board and Committee Attendance

The table below shows the record of attendance by Trustees at meetings of the Board and its committees, as well as the number of Board and Board committee meetings held during the 12-month period ended December 31, 2019.

Trustee	Number and % of Meetings Attended								
	Board	Audit Committee	Investment Committee	Corporate Governance and Compensation Committee	Special Meetings of the Board	Special Meetings of the Audit Committee	Special Independent Committee	Committees (Total) <sup>(1)</sup>	Overall
Mitchell Goldhar	4/4 100%	n/a	4/4	n/a	1/3 <sup>(2)</sup>	n/a	n/a	4/4 100%	9/11 81%
Peter Forde	4/4 100%	4/4 <sup>(3)</sup>	4/4 <sup>(3)</sup>	n/a	3/3	n/a	9/9 <sup>(3)</sup>	8/8 100%	24/24 100%
Garry Foster	4/4 100%	4/4	4/4	n/a	3/3	n/a	9/9	8/8 100%	24/24 100%
Gregory Howard	4/4 100%	n/a	4/4	7/7	3/3	n/a	n/a	11/11 100%	18/18 100%
Jamie McVicar	4/4 100%	4/4	n/a	7/7	3/3	n/a	9/9	11/11 100%	27/27 100%
Sharm Powell	3/3 100%	n/a	3/3	n/a	3/3	n/a	n/a	3/3 100%	9/9 100%
Kevin Pshebniski	4/4 100%	4/4	4/4	n/a	3/3	n/a	9/9	8/8 100%	24/24 100%
Michael Young	4/4 100%	n/a	4/4	7/7	3/3	n/a	9/9	11/11 100%	27/27 100%

Notes:

- (1) Does not include the special meetings of committees.
- (2) Because of the subject matter, Mr. Goldhar recused himself from one of these meetings.
- (3) Mr. Forde attended these meetings as a member of management.

### Individual Voting in Trustee Elections

The Board has adopted a policy that allows for Unitholders to vote for the election of individual Trustees at each annual meeting of Unitholders rather than for a fixed slate of Trustees. In addition, the Board has adopted a policy stipulating that if the votes in favour of the election of a Trustee nominee at the Meeting represent less than a majority of the Units voted and withheld, the nominee will submit his or her resignation promptly after the Meeting for the consideration of the Corporate Governance and Compensation Committee. The Corporate Governance and Compensation Committee will make a recommendation to the Board after reviewing the matter, and the Board's decision to accept or reject the resignation offer will be disclosed to the public within 90 days of the Meeting. The nominee will not participate in any Corporate Governance and Compensation Committee or Board deliberations on the resignation offer. The policy does not apply in circumstances involving contested elections.

### Orientation and Continuing Education

The Board and management of SmartCentres have established an orientation and education program for new Trustees and new committee members regarding the role of the Board, its committees and the Trustees and the nature and operation of SmartCentres' business. This includes the provision of SmartCentres' core governance and financial reporting documents, comprised of the Declaration of Trust, the mandates and recent agendas, materials and minutes of the Board and its committees, the financial statements for the previous four quarters, the latest annual information form and management information circular, the codes of conduct and the disclosure policy, all of which are to be reviewed and discussed with a combination of representatives of management and the chairs of the committees. Further, every Trustee has access to management and relevant business information and management makes regular presentations to the Board on the main areas of SmartCentres' business. At least annually, the Board reviews the skills, knowledge and effectiveness of the Board, its committees and individual Trustees.

Trustees are encouraged to attend industry presentations, seminars and courses to deepen their understanding and knowledge of the business and operations of SmartCentres. In 2019, Trustees participated in the following:

Topic/Event	Date	Presented/Hosted By	Attended By
CBRE Market Outlook	February 26, 2019	CBRE	Sharm Powell
Audit Committee Effectiveness	March 2019	Institute of Corporate Directors	Garry Foster (Instructor)
Disruption by Design	April 4, 2019	Deloitte	Garry Foster
Real Estate Conference	April 11, 2019	CIBC	Michael Young Sharm Powell
Directors Series - Economic Outlook	May 6, 2019	Deloitte	Garry Foster
Land and Building Conference	May 29, 2019	Informa	Sharm Powell
RealREIT Conference	September 5, 2019	REALpac	Sharm Powell Peter Forde
Directors Series - What Boards need to know for 2020	September 18, 2019	Deloitte	Garry Foster
ICSC Conference	September 24 - 25, 2019	International Council of Shopping Centres	Peter Forde
CPAB Real Estate Forum	September 26, 2019	Canadian Public Accountability Board	Garry Foster
REALpac CEO Conference	October 20 - 21, 2019	REALpac	Peter Forde
Toronto Real Estate Forum	December 4 - 5, 2019	Informa	Sharm Powell

### Nomination of Trustees

The Board has appointed the Corporate Governance and Compensation Committee which is responsible for, among other items: (i) reviewing the size and composition of the Board, (ii) recommending candidates for election to the Board, (iii) reviewing credentials of nominees for re-election, and (iv) recommending candidates for filling vacancies on the Board. The Corporate Governance and Compensation Committee may at times engage the services of external resources such as a search firm to assist in sourcing qualified candidates.

The Board reviews its size and composition from time to time to determine their impact on its effectiveness. The Board believes that a board of seven to nine Trustees is an appropriate size for a public entity with a capitalization and business of SmartCentres' size. The Board is currently comprised of eight Trustees. The Board believes that its current Trustees who are also the proposed Trustees to be elected or appointed at the Meeting, comprise an appropriate mix of individuals with real estate, financial, legal, property development, non-real estate investment and retail industry experience. Set forth below is a skills matrix, as determined by the Board, with respect to the current and proposed members of the Board.

Trustee	Real Estate	Financial	Legal	Property Development	Investment	Retail Industry
Mitchell Goldhar	x	x	x	x	x	x
Peter Forde	x	x		x		x
Garry Foster	x	x				x
Gregory Howard	x	x	x	x		
Jamie McVicar	x	x	x	x		
Sharm Powell	x	x			x	x
Kevin Pshebniski	x	x	x	x		
Michael Young	x	x			x	

With respect to recommending candidates who are subject to election to the Board, the Corporate Governance and Compensation Committee initially determines the preferred traits, skills and experience of potential candidates. All

Trustees and members of management are encouraged to propose candidates to the Corporate Governance and Compensation Committee through their business networks and contacts, with the Corporate Governance and Compensation Committee reviewing and considering all prospects against the identified criteria. All candidates subject to election by Unitholders are vetted by the full committee and selected based on majority vote, which selections are then recommended to the full Board for approval, where the majority of the Trustees are independent. A quorum for the transaction of business of the Corporate Governance and Compensation Committee is two and the Corporate Governance and Compensation Committee must be composed of a minimum of three Trustees, meaning that the member of the Corporate Governance and Compensation Committee appointed by the MG Entities (if any) does not have a veto in the case of nominating new Trustees.

## **CORPORATE GOVERNANCE**

The Board believes that sound governance practices are essential to achieve the best long-term interests of SmartCentres and the enhancement of value for all security holders. The Canadian Securities Administrators have issued National Policy 58-201 – *Corporate Governance Guidelines* and have also adopted NI 58-101, which requires Canadian reporting issuers to annually disclose their corporate governance practices. Below is a discussion on the current governance practices of SmartCentres.

### **Alignment of Interests with Unitholders**

The Board believes that an important element of sound governance is the alignment of interests between the Trustees, senior officers and Unitholders. This is achieved, in part, by encouraging investment in SmartCentres by the Trustees and senior officers through the Deferred Unit Plan (see “Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan”). SmartCentres currently has a long-term incentive plan that further aligns the incentives of certain senior officers of SmartCentres with the long-term interest of its Unitholders. See “Executive Compensation – Equity Compensation Plan Information – Long-Term Incentive Plan”. In addition, Unitholders are being asked to approve a new equity incentive plan (the “EIP”) at the Meeting, pursuant to which awards may be settled in Units from treasury or in cash at the participant’s election (see “Particulars of Matters to be Acted Upon – EIP”). The Board intends to replace the LTIP with the EIP for future years, if the EIP is approved by a majority of Unitholders at the Meeting.

#### ***Minimum Unit Ownership by Trustees***

SmartCentres encourages its Trustees to hold an equity position in SmartCentres. To this end, all Trustee compensation is eligible for investment in the Deferred Unit Plan. For further information, see “Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan”.

The Board has adopted a policy whereby each Trustee is required to hold Units (and/or Deferred Units under the Deferred Unit Plan) with an aggregate value of not less than three times the annual retainer paid to the Trustee. Each Trustee will have three years from the date of that Trustee’s appointment to meet this ownership requirement. As of October 26, 2020, each of the Trustees then in office, excluding Ms. Powell, who has three years from the date of her election to do so, met this ownership requirement. Further, the Trustees, in aggregate, have increased the number of Units they hold by approximately 0.8% in the last 12 months. Please see the individual profiles on pages 8 to 15 of this Circular under the section “Trustees – Nominees for Election to the Board of Trustees” which set out the equity holdings, as at October 26, 2020, of each of the Trustee nominees or those individuals to be appointed by the MG Entities upon the conclusion of the Meeting.

#### ***Minimum Unit Ownership by the Executive Chairman***

Pursuant to the terms of his new employment agreement, Mr. Goldhar will use commercially reasonable efforts to hold, directly or indirectly, Units (and/or Deferred Units under the Deferred Unit Plan, including both vested and unvested Deferred Units) with an aggregate value at least equal to three times the annual base salary paid to him until Mr. Goldhar’s resignation, the expiry of the term of his employment agreement or the termination of Mr. Goldhar’s employment by SmartCentres, whichever is earliest. Mr. Goldhar currently meets this requirement and will use commercially reasonable efforts to maintain such ownership on an ongoing basis. In the event that Mr. Goldhar’s new employment agreement, which is an MG Amended Agreement and subject to the Escrow Agreement, is not released from escrow, Mr. Goldhar’s minimum Unit ownership threshold will remain such that he will be required to hold Units (and/or Deferred Units under the Deferred Unit Plan) with an aggregate value of not less than 1.5 times his annual base salary (See “– Minimum Unit Ownership by Executive Officers”).

The following table sets out a summary of Mr. Goldhar’s ownership of Units and Unit equivalents as at October 26, 2020:

Required Multiple	Voting Units (\$)	Deferred Units (\$)	Total Units and Unit Equivalents (\$)	Total Ownership as a Multiple of Base Salary
3x	787,212,119	2,068,345	789,280,464	3,157.1x

\* LTIP Units (as defined below) awarded to Mr. Goldhar are not included in this tabulation, as the LTIP Units can only be settled for cash and therefore do not count towards Mr. Goldhar’s Unit ownership. See “Executive Compensation – Equity Compensation Plan Information – Long Term Incentive Plan”.

#### ***Minimum Unit Ownership by the Chief Executive Officer***

The Board has adopted a policy whereby the Chief Executive Officer of SmartCentres is required to hold Units (and/or Deferred Units under the Deferred Unit Plan, including both vested and unvested Deferred Units) with an aggregate value of not less than three times the annual base salary paid to the Chief Executive Officer. The Chief Executive Officer will have three years from the date of his appointment to meet this ownership guideline. Mr. Forde was appointed the Chief Executive Officer of SmartCentres effective July 1, 2018.

The following table sets out a summary of Mr. Forde’s ownership of Units and Unit equivalents as at October 26, 2020:

Required Multiple	Voting Units (\$)	Deferred Units (\$)	Total Units and Unit Equivalents (\$)	Total Ownership as a Multiple of Base Salary
3x	34,950	2,018,280	2,053,230	3.4x

\* LTIP Units (as defined below) awarded to Mr. Forde are not included in this tabulation, as the LTIP Units can only be settled for cash and therefore do not count towards Mr. Forde’s Unit ownership. See “Executive Compensation – Equity Compensation Plan Information – Long Term Incentive Plan”.

#### ***Minimum Unit Ownership by Executive Officers***

In order to further align the interests of executives with the interests of Unitholders, SmartCentres has ownership guidelines for its executive officers. Under the ownership guidelines, each of the named executive officers (as defined in Form 51-102F6 – *Statement of Executive Compensation*) (other than the Executive Chairman and Chief Executive Officer, who are subject to the ownership requirements discussed under “Minimum Unit Ownership by the Executive Chairman” and “– Minimum Unit Ownership by the Chief Executive Officer”, respectively) is required to hold Units (and/or Deferred Units under the Deferred Unit Plan) with an aggregate value of not less than 1.5 times the annual base salary paid to such named executive officer. Each named executive officer (other than the Chief Executive Officer) will have three years from the date of such named executive officer’s appointment to meet this ownership guideline. As of October 26, 2020, each named executive officer subject to the policy met this requirement other than Mr. Sweeney, who is committed to meet his requirement over the next several years.

#### **Board Mandate**

The Board is responsible for the stewardship of SmartCentres. The Board supervises management of SmartCentres with the goal of providing stable and growing cash distributions and enhancing long-term Unitholder value. Management, in turn, is responsible for the day-to-day management of the business and affairs of SmartCentres and its subsidiaries. Management is also responsible for establishing strategic planning initiatives for SmartCentres. The Board assists in the development of these goals and strategies by acting as a sounding board and by contributing ideas. The Board ultimately approves the strategic plan, taking into account the risks and opportunities of the business of SmartCentres. The Board approves all significant decisions that affect SmartCentres before they are implemented, supervises the implementation and reviews the results.

The Board has specifically assumed responsibility for:

- (a) participating in the development of the strategic plan;
- (b) identifying and managing business risks;
- (c) verifying the integrity and adequacy of SmartCentres’ internal controls and management information systems;
- (d) defining the roles and responsibilities of management;
- (e) reviewing and approving the business and investment objectives to be met by management;



- (f) assessing the performance of management and the performance of its subsidiaries;
- (g) succession planning;
- (h) ensuring effective and adequate communication with Unitholders and other stakeholders as well as the public at large; and
- (i) establishing committees of the Board, where required, and defining their mandates.

In addition, the Board has adopted a mandate that expands upon its objectives and responsibilities. The full text of the Board mandate is attached as Schedule “A” to this Circular.

### **Independent Chairs and Independent Trustees**

SmartCentres believes that having a Lead Independent Trustee on the Board as a separate position from the Executive Chairman is important in effectively providing independent Board oversight and in holding management accountable to the Board for SmartCentres’ operations. SmartCentres has also separated the roles of the Executive Chairman and the Chief Executive Officer.

Each of the Lead Independent Trustee, the Executive Chairman and the Chief Executive Officer have separate position descriptions as outlined under the section “– Position Descriptions”.

The majority of the Trustees are independent. In addition, the chair of each Board committee is an independent Trustee. Garry Foster is the Chair of the Audit Committee. Michael Young is the Chair of the Investment Committee. Jamie McVicar is the Chair of the Corporate Governance and Compensation Committee. Garry Foster is the primary contact under the Board’s “Whistleblower” policy as discussed under “Ethical Business Conduct”.

The independent Trustees meet at every Board meeting and otherwise as they deem necessary. The goal of the independent Trustees is to provide corporate governance by overseeing the activities of the Board and management to ensure all decisions are made in the best interests of SmartCentres and its Unitholders. The independent Trustees also review, and approve any related party transactions and, if necessary, will hire independent advisors to guide their deliberations. The independent Trustees report to the full Board after each meeting with any identified issues. Issues requiring further actions will be tabled, responsibility assigned and a reporting deadline agreed upon.

### **Position Descriptions**

#### ***Chair of each Board Committee***

The Board has not developed written position descriptions for the chair of each Board committee. However, the Board has adopted written mandates for the Board and for each Board committee. The Board and the members of each Board committee are responsible for taking such steps as may be necessary to ensure that the Board and the committees of the Board fulfill their respective mandates.

#### ***Lead Independent Trustee***

The Board has developed a position description for the Lead Independent Trustee of SmartCentres, which affirms that the Lead Independent Trustee is expected to facilitate the functioning of the Board independently of management of SmartCentres and to provide independent leadership to the Board.

The Lead Independent Trustee is responsible for, among other things, acting as a leader for the independent Trustees; in the absence of the Executive Chairman, acting as chair of meetings of the Board; reviewing with the Executive Chairman and Chief Executive Officer items of importance for consideration by the Board; serving as an independent contact for independent Trustees; organizing and presenting the agenda for *in camera* meetings of the independent Trustees based on input from the Trustees and management; and communicating with the Executive Chairman and senior officers of SmartCentres so that they are aware of concerns of the independent Trustees, Unitholders and other stakeholders of SmartCentres.

#### ***Executive Chairman***

The Executive Chairman is responsible for, among other things, overseeing the Board’s discharge of its duties; governing the conduct of the Board; assisting Board committees; reviewing and monitoring the long-term business

plan, strategies and policies of SmartCentres; and presiding over meetings of the Board. Key responsibilities outside the traditional Chairman role include driving overall execution of SmartCentres' business strategy as well as driving matters of finance, leasing, asset management and property management and the implementation of the development and intensification initiatives for existing properties and new development initiatives, as well as strengthening SmartCentres' existing strategic relations and establishing new partnerships and other strategic relationships and developing and implementing SmartCentres' overall investor and public relations strategy.

### ***Chief Executive Officer***

The Board has developed a position description for the Chief Executive Officer of SmartCentres involving the definition of the Chief Executive Officer's responsibilities, which are subject to the limits prescribed in the Real Estate Committee mandate (see "– Real Estate Committee"). In addition, the Board has developed objectives which the Chief Executive Officer is responsible for meeting and the Board assesses the Chief Executive Officer against those objectives.

### **Ethical Business Conduct**

The Board has adopted a written code of conduct for the Trustees and a written code of conduct for officers and employees of SmartCentres and its subsidiaries. A copy of each code of conduct may be obtained electronically at [www.sedar.com](http://www.sedar.com).

The SmartCentres Code of Business Conduct (the "**Code of Business Conduct for Associates**") stipulates that officers and employees of SmartCentres and its subsidiaries will deal openly and honestly with investors, tenants, suppliers and colleagues. The Code of Business Conduct for Associates strives to create a culture in SmartCentres and its subsidiaries that values honesty, high ethical standards and compliance with laws, rules and regulations. In addition, the Code of Business Conduct for Associates includes SmartCentres' policies on human rights, equal opportunity employment, sexual harassment, workplace harassment and privacy and protection of information. The Board also adopted a separate insider trading policy effective November 9, 2015.

The SmartCentres Code of Business Conduct for Trustees (the "**Trustee Code of Conduct**") stipulates that the Trustees must act in an ethical and lawful manner while recognizing their responsibility to represent SmartCentres' best interests. The Trustee Code of Conduct provides that as fiduciaries of SmartCentres, the Trustees are expected to provide leadership in upholding and requiring adherence to applicable laws and must observe a high standard of morality in the conduct of their duties as Trustees regardless of their personal or financial interests. The Trustee Code of Conduct includes SmartCentres' policies on insider trading for Trustees, treatment of confidential information and intellectual property of SmartCentres, media statements, anti-corruption and the receiving and giving of gifts by Trustees.

The Board monitors compliance by having the Trustees and the officers and employees of SmartCentres and its subsidiaries annually certify that they have read and complied with the Trustee Code of Conduct or Code of Conduct for Associates, as applicable. The Trustees and the officers and employees of SmartCentres and its subsidiaries are encouraged to raise compliance concerns with the Board, the President and Chief Executive Officer, Chief Financial Officer or SmartCentres' Alert Line, or the chair of the Corporate Governance and Compensation Committee, in the case of the Trustees, and their manager or executive manager or the human resources department of SmartCentres, in the case of officers and employees of SmartCentres.

The Declaration of Trust contains "conflict of interest" provisions that serve to protect Unitholders without creating undue limitations on SmartCentres. Given that the Trustees of SmartCentres are engaged in a wide range of real estate and other business activities, the Declaration of Trust contains provisions, similar to those contained in the *Canada Business Corporations Act*, that require each Trustee to disclose to SmartCentres any interest in a material contract or transaction or proposed material contract or transaction with SmartCentres (including a contract or transaction involving the making or disposition of any investment in real property or a joint venture arrangement) or the fact that such person is a director or officer of or otherwise has a material interest in any person who is a party to a material contract or transaction or proposed material contract or transaction with SmartCentres. Such disclosure is required to be made at the first meeting at which a proposed contract or transaction is considered. In the event that a material contract or transaction or proposed material contract or transaction is one that in the ordinary course would not require approval by the Trustees, a Trustee is required to disclose in writing to SmartCentres or request to have entered into the minutes of the meeting of the Trustees the nature and extent of his or her interest forthwith after the Trustee becomes aware of the contract or transaction or proposed contract or transaction. In any case, a Trustee who has made

disclosure to the foregoing effect is not entitled to vote on any resolution to approve the contract or transaction unless the contract or transaction is one relating primarily to his or her remuneration as a Trustee, officer, employee or agent of SmartCentres or one for indemnity under the provisions of the Declaration of Trust or liability insurance.

The Board has advised each of the executive officers of SmartCentres and its subsidiaries that the terms of his or her employment require such executive officers to follow the same disclosure procedures and practices outlined above when such executive officer is in a situation that is, or may be considered to be, a “conflict of interest”.

The Audit Committee has also adopted a “whistleblower” policy that sets out procedures which allow Trustees, directors, officers and employees of SmartCentres and its subsidiaries to file reports on a confidential and anonymous basis with the appropriate arm’s length third parties regarding any concerns about accounting, internal accounting controls or auditing matters.

## **Gender Diversity**

SmartCentres values the benefits diversity and inclusion can bring to all levels of the organization in promoting better corporate governance and decision-making. For SmartCentres, diversity includes, but is not limited to, expertise, experience, knowledge, education, gender, age, ethnicity and geographical background. SmartCentres has had a written diversity policy since 2015 that sets out SmartCentres’ commitment to diversity. A copy of the current policy is available on SmartCentres’ website at <https://www.smartcentres.com/our-story/governance/>.

### ***Board Diversity***

As set out in the diversity policy, the Board should be comprised of individuals who collectively possess all of the competencies and skills necessary to enable the Board to properly perform its responsibilities. Each Board member should be highly qualified with the necessary expertise, experience, knowledge and personal qualities to enable that individual to make a significant contribution to the Board. The composition of the Board should also take into account SmartCentres’ commitment to diversity. Gender diversity is a significant aspect of diversity and, accordingly, SmartCentres aspires that by the annual meeting of Unitholders in 2022 women will comprise at least 30% of the independent Trustees.

With a view to identifying and recruiting female candidates for service on the Board, SmartCentres’ diversity policy specifies the following requirements:

- when assessing Board composition or identifying suitable candidates for appointment or re-election to the Board, candidates will be considered on their merit, having due regard to the benefits of diversity;
- search protocols for new candidates will extend beyond the networks of existing Board members;
- a reasonable proportion of the identified candidates must be women;
- search firms will be directed to conduct their searches in accordance with the diversity policy, including by seeking to identify a reasonable number of qualified female candidates; and
- a reasonable number of female candidates shall be included in the Board’s evergreen list of potential Board nominees.

In furtherance of the commitment to diversity at the Board, the Board will annually assess, and SmartCentres will report to its Unitholders on, the diversity of Board members, including the number and percentage of female Trustees.

The Corporate Governance and Compensation Committee reviews SmartCentres’ diversity policy annually and assesses its effectiveness in promoting a diverse Board with appropriate female representation.

In 2018 the Board decided to increase its size from seven to eight Trustees and began a search for qualified candidates for the new position. In recognition of the importance of gender diversity, the external search firm engaged to assist in the search process was directed to restrict its search for qualified candidates to women. That process resulted in the recommendation and subsequent election of Ms. Sharm Powell to the Board. Currently, the Board has one female Trustee, representing 12.5% of the Trustees and 20% of the independent Trustees.

Also, in accordance with the diversity policy the Corporate Governance and Compensation Committee maintains an evergreen list of potential candidates for the Board. At this time a majority of the candidates are women.

### *Diversity in the Workforce*

As set out in the diversity policy, SmartCentres is also committed to fostering an inclusive workplace culture based on merit and free of conscious and unconscious bias. SmartCentres is committed to the diversity of its management team, and gender diversity is a significant aspect of diversity. Having a merit-based system of advancement is a core principle at SmartCentres and the identification and selection of candidates for executive officer and other management positions is based on merit, having due regard to all relevant criteria, including expertise, experience, knowledge, education, personal qualities and SmartCentres' diversity policy.

The Corporate Governance and Compensation Committee monitors the proportion of female executive officers and the proportion of women at other management levels within SmartCentres. Management reports to the Corporate Governance and Compensation Committee on initiatives that are designed to support an inclusive culture that provides opportunities to all high-potential employees, free of conscious or unconscious bias.

Some of the practices SmartCentres has adopted to protect against barriers to inclusion include:

- all people managers have been trained in fair selection processes, including specific training on structured interviewing techniques;
- a minimum of two levels of interviews, with a human resources professional directly involved, is conducted for new recruits;
- SmartCentres periodically reviews its performance review process, promotion practices and compensation structure for bias and hidden barriers – the most recent review of SmartCentres' compensation structure, performance review process and historical data on promotions by the Ontario Pay Equity Commission found them to be in order and free of gender bias;
- SmartCentres has a robust Talent Management program in order to identify high-potential individuals early in their careers and develop their careers (see "Talent Management and Succession Planning Philosophy" below). Currently, 6 of the 13 candidates in this group are women;
- there is an internal committee comprised of the executive management team that regularly reviews gender diversity at senior levels of the organization to ensure there are no roadblocks to advancement within any function at the organization. This committee reports periodically to the Board on the representation of women and high-potential candidates in general and at different levels within the organization;
- several employee programs support the needs of SmartCentres' diverse population, including parental leave programs, flexible work arrangements and a company wellness program that includes programs on meeting family needs; and
- internal events are organized to celebrate different cultural traditions and important dates, such as International Women's Day, and charitable giving at SmartCentres includes recognition of charities focussed on the needs of diverse groups.

In accordance with the diversity policy, candidates for executive officer and senior officer roles will be identified and selected based on merit, having due regard to all relevant criteria, including expertise, experience, knowledge, education and personal qualities. Gender diversity is an important factor to be taken into account. SmartCentres has not adopted targets for the proportion of women executive officers. SmartCentres believes its focus on ensuring there are no barriers to inclusion and promotion based on merit is more effective in building a sustainable inclusive culture.

In furtherance of SmartCentres' commitment to diversity among the executive officers and management team, the Corporate Governance and Compensation Committee will annually assess, and SmartCentres will report to its Unitholders on, the effectiveness of efforts taken by SmartCentres to adhere to SmartCentres' diversity policy at the executive and management level.

At SmartCentres women comprise 52.6% of the total workforce (184 of 350). There is currently one female executive officer and numerous women have made significant progress internally and achieved senior level positions. The table below sets out the proportion of women at different levels of management.

Named Executive Officers	Senior Leadership (VP, SVP and EVP levels)	Senior Managers (Asst. Dir., Dir. and Sr. Dir. levels)
0 of 5 (0%)	11 of 34 (32.4%)	17 of 40 (42.5%)

## **Compensation**

The Board, through its Corporate Governance and Compensation Committee, periodically reviews the adequacy and form of compensation provided to its Trustees and executive officers. The Corporate Governance and Compensation Committee considers the time commitment, risks and responsibilities of Trustees and executive officers and takes into account the types of compensation and the amounts paid to directors and/or Trustees and executive officers of comparable publicly traded Canadian companies. No current or proposed member of the Corporate Governance and Compensation Committee is an officer of SmartCentres, and, as such, the Board feels that the Corporate Governance and Compensation Committee conducts its activities in an objective manner.

## **Board Committees**

The Trustees may appoint from among their number one or more committees of Trustees and may, subject to applicable law and to any provision in the Declaration of Trust to the contrary, delegate to such committee or committees any of the powers of the Trustees.

The Board has three standing committees: The Audit Committee, the Investment Committee and the Corporate Governance and Compensation Committee. The Board may establish additional or special committees from time to time in its discretion.

As two of the Trustees are currently appointed by the MG Entities, certain Trustees who are independent of the MG Entities meet separately from time to time to consider matters relating to strategy and SmartCentres' relationship with the MG Entities, among other matters.

### *Audit Committee*

Pursuant to the Declaration of Trust, the Trustees shall appoint an Audit Committee to consist of not less than three Trustees. The Audit Committee shall be composed of Trustees who comply with the provisions of National Instrument 52-110 – *Audit Committees* respecting financial literacy and independence. Subject to the delegation to the Audit Committee of such other responsibilities as are determined by the Trustees from time to time and subject to such changes to its form and function as may be mandated by any relevant regulatory authorities, the Audit Committee shall:

- (a) review SmartCentres' procedures for internal control with the external auditor and SmartCentres' Chief Financial Officer;
- (b) review the engagement of the external auditors;
- (c) review and recommend to the Trustees for approval annual and quarterly financial statements and accompanying notes and management's discussion and analysis of financial condition and results of operation;
- (d) assess SmartCentres' financial and accounting personnel;
- (e) review any significant transactions outside SmartCentres' ordinary course of business, cash position and all pending litigation involving SmartCentres;
- (f) consider and review cyber security and related risks; and
- (g) consider and review SmartCentres' Enterprise Risk Management Plan.

The external auditor of SmartCentres is entitled to receive notice of every meeting of the Audit Committee and, at the expense of SmartCentres, to attend and be heard thereat and, if so requested by a member of the Audit Committee, shall attend any meeting of the Audit Committee held during the term of office of the external auditor.

For further details on the Audit Committee, please refer to the section entitled "Audit Committee" in the latest annual information form of SmartCentres.

### *Investment Committee*

Pursuant to the Declaration of Trust, the Trustees shall appoint an Investment Committee to consist of not less than three Trustees and not more than five Trustees, a majority of whom shall be outside Trustees (i.e. independent of management), two of whom shall be Trustees appointed by the MG Entities for so long as the MG Entities are the

beneficial owners in aggregate of in excess of 15% of the issued and outstanding Voting Units (unless the prior written consent to the contrary or a written waiver of the MG Entities Representative is obtained) and Mitchell Goldhar remains alive and two-thirds of whom shall have had at least 5 years of substantive experience in the real estate industry. The duties of the Investment Committee are to:

- (a) review all proposals regarding investments;
- (b) review and approve or reject proposed acquisitions and dispositions of investments by SmartCentres or any of its subsidiaries or affiliates that do not exceed the applicable financial thresholds determined by the Trustees from time to time;
- (c) review and approve or reject proposed transactions on behalf of SmartCentres or any of its subsidiaries or affiliates that do not exceed the applicable financial thresholds determined by the Trustees from time to time; and
- (d) review and approve or reject all borrowings and the assumption or granting of any mortgage or other security interest in real property, including any assignment of rents and other monies derived from or related to real property, by SmartCentres or any of its subsidiaries and affiliates that do not exceed the applicable financial thresholds determined by the Trustees from time to time.

Where for any reason a member of the Investment Committee is disqualified from voting on or participating in a decision, any other independent and disinterested Trustee not already a member of the Investment Committee may be designated by the Trustees to act as an alternate. The Investment Committee shall be entitled to delegate its responsibility to the management of SmartCentres for the foregoing matters provided that such matters do not exceed the applicable financial thresholds determined by the Trustees from time to time to be appropriate for management to consider and approve and may provide additional requirements, including setting out pre-determined financing terms, requiring management to review a matter with the chair of the Investment Committee prior to approving such matter and requiring appropriate reporting requirements.

Notwithstanding the foregoing, in order to ensure compliance with the applicable securities laws relating to related party transactions, including the rules prescribed by Multinational Instrument 61-101 – *Take-Over Bids and Special Transactions*, all related party transactions will be approved by either the disinterested members of the Board or the disinterested members of the Investment Committee and any Trustees with an interest in such a transaction will abstain from voting.

Notwithstanding the appointment of the Investment Committee and its ability to delegate to the management of SmartCentres, the Trustees may consider and approve any matter which the Investment Committee or the management of SmartCentres has the authority to consider or approve. The Trustees must also consider and approve any matter which exceeds the financial thresholds for management as determined by the Trustees from time to time.

Unitholders are being asked to vote upon an amendment to the Declaration of Trust at the Meeting which would increase the maximum number of Investment Committee members to six (see “Particulars of Matters to be Acted Upon – Amendments to Declaration of Trust – Investment Guidelines Amendments”).

#### ***Corporate Governance and Compensation Committee***

Pursuant to the Declaration of Trust and except as otherwise set forth below, the Trustees shall appoint a Corporate Governance and Compensation Committee to consist of not less than three Trustees and not more than four Trustees, one of whom shall be a Trustee appointed by the MG Entities for so long as the MG Entities are the beneficial owners in aggregate of in excess of 15% of the issued and outstanding Voting Units (unless the prior written consent to the contrary or a written waiver of the MG Entities Representative is obtained) and Mitchell Goldhar remains alive. The duties of the Corporate Governance and Compensation Committee will be to review the governance of SmartCentres with the responsibility for SmartCentres’ corporate governance, human resources and compensation policies. In particular, the Corporate Governance and Compensation Committee is responsible for:

- (a) assessing the effectiveness of the Board and each of its committees;
- (b) considering questions of management succession, including reviewing talent and gender diversity;
- (c) participating in the recruitment and selection of candidates as Trustees;
- (d) considering and approving proposals by the Trustees to engage outside advisers on behalf of the Board;

- (e) administering SmartCentres' short and long-term incentive plans, including the setting of performance metrics;
- (f) assessing the performance of the Chief Executive Officer of SmartCentres;
- (g) reviewing and approving the compensation of senior management and consultants of SmartCentres and its subsidiaries; and
- (h) reviewing and making recommendations to the Board concerning the level and nature of the compensation payable to the Trustees.

Where for any reason a member of the Corporate Governance and Compensation Committee is disqualified from voting on or participating in a decision, any other independent and disinterested Trustee not already a member of the Corporate Governance and Compensation Committee may be designated by the Trustees to act as an alternate.

The Corporate Governance and Compensation Committee is composed of Trustees who are knowledgeable about issues related to human resources, leadership, compensation and governance. Each committee member's understanding of these issues may be enhanced by participating in educational programs (see "Trustees – Orientation and Continuing Education"). For more information on the experiences of each committee member, as well as their occupations and education, please see the individual profiles on pages 8 to 15 of this Circular under the section "Trustees – Nominees for Election to the Board of Trustees".

Notwithstanding the appointment of the Corporate Governance and Compensation Committee the Trustees may consider and approve any matter which the committee has authority to consider or approve.

#### *Executive Committee*

Pursuant to the terms of the Governance and Investor Rights Agreement, for so long as the MG Entities beneficially own at least 10% of the outstanding Voting Units, SmartCentres will continue to maintain the Executive Committee comprised of a maximum of eight senior employees of SmartCentres, including SmartCentres' Executive Chairman, President and Chief Executive Officer, Chief Financial Officer, Chief Development Officer, Executive Vice President, Portfolio Management and Investments and such other senior management as the Executive Chairman and the Chief Executive Officer may mutually agree and designate. Under the direction of the Executive Chairman and the Chief Executive Officer, the Executive Committee is responsible for overseeing the management of all significant matters affecting SmartCentres.

The Governance and Investor Rights Agreement is an MG Amended Agreement and is subject to the Escrow Agreement. In the event that the Governance and Investor Rights Agreement is not released from escrow, the terms of the original governance and investor rights agreement will continue to apply with respect to the size and composition of the Executive Committee.

#### *Real Estate Committee*

If at any time prior to December 31, 2025 (the "**Expiry Time**"), Mitchell Goldhar is no longer employed as Executive Chairman of the Board of Trustees, SmartCentres has agreed that it shall re-establish the Real Estate Committee which shall be comprised of such senior officers of SmartCentres and its subsidiaries as Mitchell Goldhar and the President and Chief Executive Officer shall agree, acting reasonably.

If the Real Estate Committee is re-established, from the date on which it is re-established to and including the Expiry Time, so long as the MG Entities beneficially own at least 10% of the outstanding Voting Units:

- (a) SmartCentres will maintain the Real Estate Committee; and
- (b) the following matters are subject to review by the Real Estate Committee:
  - (i) the acquisition or disposition of any property adjacent to an existing property owned by SmartCentres or any MG Entity or with a price in excess of \$5,000,000;
  - (ii) the commencement of any new development project with Walmart Canada Realty Inc. or any of its affiliates as a tenant;
  - (iii) all matters that are subject to the approval of the management committee, the investors committee or any co-owners committee in respect of the joint venture with Walmart

Canada Realty Inc. or any of its affiliates;

- (iv) any lease with, or parcel sale to, a tenant for premises with an area in excess of 35,000 square feet, or any buy out of, renewal or extension of, acceptance of surrender of, material amendment to or any other material dealing with, or exercise of remedies under, any such lease;
- (v) any development project in excess of \$20,000,000 that actually or is forecast to exceed the then approved development budget for such project by more than 2%;
- (vi) any redevelopment of a property involving estimated total expenditures in excess of \$5,000,000;
- (vii) on a quarterly basis and at any other time as needed, the marketing and other plans to develop the brands of SmartCentres;
- (viii) the annual leasing plan of SmartCentres;
- (ix) on an annual basis, the portfolio of properties and land held by SmartCentres; and
- (x) any other real estate or brand related matter that the Chief Executive Officer proposes be reviewed by the Real Estate Committee, or Mitchell Goldhar proposes be reviewed by the Real Estate Committee, subject to approval of such proposal by the Chief Executive Officer, acting reasonably.

The Governance and Investor Rights Agreement provides Mitchell Goldhar with the right to be an observer on the Real Estate Committee and the right to receive notice of all meetings of the Real Estate Committee and all meeting materials at the same time as the members of the Real Estate Committee (except materials in respect of matters in which any MG Entity is the counterparty) and to attend and, in his capacity as an observer, participate at all meetings of the Real Estate Committee (except the portion of a meeting in respect of matters in which any MG Entity is the counterparty).

The Governance and Investor Rights Agreement is an MG Amended Agreement and is subject to the Escrow Agreement. In the event that the Governance and Investor Rights Agreement is not released from escrow, the terms of the original governance and investor rights agreement will continue to apply with respect to the Real Estate Committee.

### ***Special Committees***

All related party transactions are reviewed and approved by the independent Trustees. Depending on the complexity and size of the transaction, the Board of Trustees may form a special committee composed solely of independent Trustees to review, supervise and participate in the negotiation and resolution of the related party transaction. The special committee will be entitled to select and retain separate legal, financial, realty, compensation and other advisors to assist the special committee in carrying out its mandate.

### **Assessments of Trustees**

The Corporate Governance and Compensation Committee annually conducts a peer evaluation process to provide feedback to individual Trustees, including the chairs of each Board committee, on their effectiveness. The survey requires that every Trustee assess the contribution of each of his or her peers. The Corporate Governance and Compensation Committee also conducts an annual evaluation of the effectiveness of the Board and each of the committees of the Board. The latter survey covers the operation of the Board and its committees, the adequacy of information provided to Trustees, Board structure and agenda planning for Board meetings. These assessments take into account the Board mandate and the relevant committee mandates. The results of the surveys form the basis of recommendations to the Board for change.

### **Board Renewal and Retirement**

SmartCentres does not have a mandatory age for the retirement of Trustees and there are no term limits. Instead, the Corporate Governance and Compensation Committee reviews the composition of the Board on a regular basis in relation to approved Trustee criteria and skill requirements and recommends changes as appropriate to renew the Board. The chair of the Corporate Governance and Compensation Committee leads the effort to identify and recruit candidates to join the Board in current and future years, with a focus on enhancing the Board's diversity in accordance



with SmartCentres' diversity policy. While term limits can be a way to effect change on boards, the Corporate Governance and Compensation Committee believes that the imposition of Trustee term limits implicitly discounts the value of experience and institutional memory on the Board and runs the risk of excluding effective Board members who have longstanding knowledge of SmartCentres and its operations as a result of an arbitrary determination. The Corporate Governance and Compensation Committee believes that it can achieve the right balance between continuity and encouraging turnover and independence without mandated term limits and relies on its annual Trustee assessment procedures in this regard. See “– Assessment of Trustees” for further details on such procedures. Each Trustee who is not appointed by the MG Entities is nominated and stands for election each year.

### **Talent Management and Succession Planning Philosophy**

SmartCentres has a talent management and succession planning process in place that ensures key positions in SmartCentres have the necessary depth for effective continuance of business activities. SmartCentres' philosophy is to develop and promote from within for these key positions. SmartCentres uses an approach that includes identification, assessment and development of high-performing associates who demonstrate a readiness for such key positions.

Interim successors are also identified for each key role, who can take over the role on an emergency-basis until a long-term successor can be identified. Such interim successor is distinct from a succession planning candidate.

To build ongoing depth, SmartCentres has:

- (a) implemented an extensive recruitment and onboarding process to ensure the right fit of the candidate for the role within SmartCentres, and to promote diversity and varied perspectives within SmartCentres;
- (b) developed an Individual Career Discussion program for qualifying associates that outlines future development and growth objectives that the associates work towards over a 3-5 year period. The program includes special assignments, mentoring, cross-training, increased responsibilities and leadership, attending and eventually presenting at key business and Board meetings and ongoing internal and external training/courses;
- (c) implemented a nomination and sponsorship process for high-potential candidates for the identified key succession positions, based on past performance and formal assessments;
- (d) established formal managerial-leadership development curriculum that all managers are required to attend; and
- (e) implemented business-related training sessions and courses, administered both internally and externally.

SmartCentres' succession planning activities are the responsibility of the Talent Leadership Committee, which is comprised of executive officers of SmartCentres. The committee:

- (a) plays a key role in partnering with the Corporate Governance and Compensation Committee to ensure that ongoing talent management and succession planning objectives are met annually;
- (b) meets annually to review and update the annual succession plan; and
- (c) provides bi-annual reports to the Corporate Governance and Compensation Committee.

In addition, the Chief Executive Officer and senior leaders of SmartCentres have specific performance objectives relating to talent management and succession planning and are held accountable through the performance review process and incentive program. See “Executive Compensation – Compensation Discussion and Analysis”.

SmartCentres' philosophy of building ongoing depth reinforces its core values and culture, helps promote retention of talent and provides more opportunity for succession.

## REPORT OF THE SPECIAL INDEPENDENT COMMITTEE

Prior to Mitchell Goldhar's appointment as Executive Chairman of SmartCentres, the Board formed a Special Independent Committee (the "**Special Independent Committee**") consisting of Messrs. Garry Foster (Chair), Kevin Pshebniski, Michael Young and Jamie McVicar. Each of the members of the Special Independent Committee are independent within the meaning of applicable corporate governance standards as well as Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**").

The mandate of the Special Independent Committee was to, among other things: (i) review and evaluate the compensation to be paid to Mitchell Goldhar as Executive Chairman of SmartCentres; (ii) review and evaluate the amounts received from and paid to Mitchell Goldhar in connection with certain related party services (including the Penguin Services Agreement) and to consider whether the terms of those services should be extended and/or amended; (iii) review, supervise and participate in the negotiation and/or potential amendment of certain agreements between SmartCentres and Mitchell Goldhar; (iv) review, supervise and participate in the negotiation of any changes to governance matters involving Mitchell Goldhar and SmartCentres; (v) review the status and terms of various mezzanine loan and earnout arrangements between SmartCentres and Mitchell Goldhar; and (vi) review and supervise such other related party arrangements between SmartCentres and Mitchell Goldhar as deemed advisable by the Special Independent Committee.

To assist it in fulfilling its mandate, the Special Independent Committee retained Goodmans LLP ("**Goodmans**") as its independent legal counsel. The Special Independent Committee also engaged FPL Associates, a global compensation consulting firm specialising in the REIT industry and a division of Ferguson Partners ("**FPL**"), as its independent compensation consultant to assist the Special Independent Committee in developing a new long-term incentive plan for Mitchell Goldhar and other members of senior management. During the course of its mandate, the Special Independent Committee also received advice from other third-party experts, including real property valuers, with respect to certain matters reviewed by the Special Independent Committee.

In light of Mitchell Goldhar's significantly expanded role with SmartCentres (including as Executive Chairman) and the evolution of SmartCentres' business since it acquired its development platform from Mitchell Goldhar in 2015 (the "**2015 Transaction**") (when many of the existing arrangements between SmartCentres and Mitchell Goldhar were put in place) and SmartCentres' future growth opportunities, the Special Independent Committee considered it necessary and appropriate to conduct a comprehensive review of all material arrangements between SmartCentres and Mitchell Goldhar to ensure that they properly reflected these new circumstances.

During the course of this process, which spanned approximately 3 years and included over 20 formal meetings, the Special Independent Committee carefully reviewed and analyzed extensive information, advice and analysis, including, among other things:

- legal advice regarding the duties and responsibility of the Special Independent Committee in discharging its mandate;
- information about Mitchell Goldhar's significantly expanded role as Executive Chairman as compared to his previous non-executive role;
- information about additional services and contributions that Mitchell Goldhar has been providing to SmartCentres and certain jointly owned projects in recent years that extend beyond his role as non-Executive and then Executive Chairman and beyond his obligations under the Original Penguin Services Agreement;
- information from SmartCentres' management about the status of SmartCentres' current and future development projects, as well as Mitchell Goldhar's role in strategy, planning and implementing those projects;
- analysis of the terms of existing arrangements between SmartCentres and Mitchell Goldhar;
- analysis and advice regarding possible amendments to the existing arrangements between SmartCentres and Mitchell Goldhar, as well as possible new arrangements to reflect the changing circumstances in Mitchell Goldhar's role with SmartCentres and SmartCentres' business;
- advice from compensation consultants regarding compensation arrangements for executive chairpersons, real estate private equity firms and real estate developers in North America;

- information and advice from FPL regarding various potential structures and terms for the EIP, including the eligible participants, types of awards, performance criteria, vesting conditions and payouts;
- advice from FPL regarding the proposed MG Award, including its conclusions that, taking into account the difficulty to achieve the performance goals as understood by FPL, and subsequent additional time-based vesting criteria set forth in the proposed award, the potential award value is reasonable to reflect the significant contributions and involvement required of Mitchell Goldhar to achieve the performance milestones, and it aligns Mitchell Goldhar's compensation with the long-term interests of all Unitholders; and
- information and advice from management about business objectives and performance criteria that are the most important for increasing value for Unitholders and that Mitchell Goldhar would be in a position to influence in his roles as Executive Chairman and as the principal of the Penguin group of companies.

The Special Independent Committee also carefully considered extensive information provided by SmartCentres' management regarding SmartCentres' business, financial condition, board strategic initiatives and future plans. The Special Independent Committee invited representatives of management to attend portions of its meetings so that management could present such information to, and answer questions from, the Special Independent Committee. The Special Independent Committee was cognizant of the historical relationships between certain members of management and Mitchell Goldhar. Accordingly, the Special Independent Committee separately analyzed the information provided by management to ensure that it was based on assumptions that the Special Independent Committee considered to be reasonable, and the Special Independent Committee held *in camera* sessions during all such meetings during which sessions management was not present.

As a result of its review, the Special Independent Committee determined that certain changes to existing arrangements between SmartCentres and Mitchell Goldhar, as well as the establishment of certain new arrangements between the parties, would be in the best interests of SmartCentres and Unitholders in light of Mitchell Goldhar's significantly expanded role with SmartCentres (including his role as Executive Chair and additional services and contributions beyond his duties as Executive Chair and his obligations under the Original Penguin Services Agreement) and the evolution in SmartCentres business and future growth opportunities. As a result, the Special Independent Committee, working with its independent advisors, sought to develop a reasonable and appropriate framework for SmartCentres' relationship with Mitchell Goldhar that would seek to ensure that SmartCentres and Unitholders continue to benefit from Mitchell Goldhar's significantly expanded role with SmartCentres for the reasonably foreseeable future and that would align his compensation as Executive Chairman with the interests of all Unitholders to the greatest extent possible.

Commencing in 2018, representatives of the Special Independent Committee met personally with Mitchell Goldhar to discuss the Special Independent Committee's views and possible amendments to the existing arrangements between SmartCentres and Mr. Goldhar, as well as possible new arrangements, that would achieve the Special Independent Committee's objectives and that would be acceptable to Mitchell Goldhar. At that time, recognizing the complexity of these arrangements and the time it could take to finalize new or amended arrangements, the parties agreed in principle that any amendments and/or new arrangements would apply from the time that Mitchell Goldhar assumed his role as Executive Chair, unless the parties otherwise agreed. Members of the Special Independent Committee conducted these discussions and negotiations directly with Mitchell Goldhar, and met frequently with its independent advisors and, where appropriate, SmartCentres management and legal advisors, to discuss and analyze the terms and conditions of the various arrangements that were being discussed to ensure that they achieved the Special Independent Committee's objectives of retaining Mitchell Goldhar and his significantly expanded role with SmartCentres and aligning his compensation with Unitholders to the greatest extent possible.

After careful deliberation and consideration of the information described above and the factors set forth below, as well as consultation with its independent legal counsel and other third party advisors, the Special Independent Committee reached a unanimous recommendation for an overall framework for the relationship between SmartCentres and Mitchell Goldhar that is supported by Mitchell Goldhar. The principal elements of this new framework include:

- a new employment agreement setting forth Mitchell Goldhar's compensation and other employment terms as Executive Chairman of SmartCentres from February 2018 to December 31, 2025 (subject to the terms and conditions thereof) described under "- Executive Employment Agreement", "Letter from the Chair of the Corporate Governance and Compensation Committee – Executive Chairman" and "Executive Compensation – 2019 Compensation for the Named Executive Officers – Summary Compensation Table";

- subject to the approval of Unitholders, adoption of the EIP described under “Particulars of Matters to be Acted Upon – EIP”, in which Mitchell Goldhar (along with certain other officers and key employees) would participate, and the grant of the proposed MG Award described under “ – Performance Unit Award for Mitchell Goldhar”;
- subject to the approval of Unitholders, an extension of the Voting Top-Up Right to December 31, 2025 (and associated amendments) and clarification of related governance rights described under “Particulars of Matters to be Acted Upon – Amendments to Declaration of Trust – MG Amendments”;
- the amendments and supplements to the Development Services Agreement described under “– Development Services Agreement”;
- the amendments to the Original Penguin Services Agreement described under “Executive Compensation – 2019 Compensation for the Named Executive Officers – Penguin Services Agreement”;
- entering into the Omnibus Agreement, pursuant to which, among other things, the parties agreed to amend certain provisions in the agreements governing the earn-out arrangements between SmartCentres and Mitchell Goldhar;
- the amendments to the Non-Competition Agreement described under “– Non-Competition Agreement”; and
- the amendments to the terms of the mezzanine loans from SmartCentres to Mitchell Goldhar described under “– Mezzanine Loans”.

In making its unanimous recommendations, the Special Independent Committee considered the following factors, among others:

- Mitchell Goldhar brings a business acumen to all components and aspects of SmartCentres, which gives SmartCentres a competitive edge.
- The Special Independent Committee believes that Mitchell Goldhar is integral for SmartCentres to realize the full potential of its pipeline of largescale, mixed-use development opportunities, particularly given his unique strategic relationships with a number of SmartCentres key development partners (including Walmart) and his successful long-term development and operational track record.
- The Special Independent Committee believes that the new and amended arrangements with Mitchell Goldhar more fully align Mitchell Goldhar’s compensation with the interests of SmartCentres and all Unitholders. In particular, a substantial portion of the potential compensation that Mitchell Goldhar can earn in his capacity as Executive Chairman and under the Penguin Services Agreement is performance-based, meaning that the amended compensation package paid to Mitchell Goldhar would be associated with SmartCentres achieving superior business and financial objectives, which the Special Independent Committee believes will create additional value for SmartCentres and its Unitholders.
- Leading up to and after assuming the role of Executive Chairman, Mitchell Goldhar has significantly increased his role in all aspects of SmartCentres business, including corporate strategy, leadership, development, intensification initiatives, master planning, leasing, operations and finance. Mitchell Goldhar is devoting significant time and effort to assisting SmartCentres with negotiation and development of its projects that goes beyond his role as Executive Chairman and the obligations of his company under the Original Penguin Services Agreement. The Special Independent Committee believes the new and amended arrangements with Mitchell Goldhar will help to ensure that SmartCentres and Unitholders continue to benefit from the value that Mitchell Goldhar’s significantly expanded role with SmartCentres is expected to deliver.
- The existing contractual arrangements between SmartCentres and Mitchell Goldhar were implemented in connection with the 2015 Transaction based on (i) an expectation that Mitchell Goldhar would have a non-executive role with SmartCentres, and (ii) the fact that SmartCentres’ business was then focused primarily on the development of retail properties. Since that time, SmartCentres has changed its focus to include development of multi-residential, seniors’ residences, self-storage projects, office, industrial and hotels, and the Special Independent Committee believes that the new arrangements described above more appropriately reflect this expanded focus.
- The amendments to the Original Penguin Services Agreement expand the application of that agreement from the initial four development projects included in the existing agreement to over 100 properties (260 projects)

in respect of which SmartCentres is currently in various stages of development as part of its mixed-use initiatives.

- The new and amended arrangements with Mitchell Goldhar are the result of a robust process that was undertaken at arm's length between the Special Independent Committee and its independent advisors, on the one hand, and Mitchell Goldhar and his advisors, on the other hand. The Special Independent Committee was comprised solely of Trustees who are unrelated to Mitchell Goldhar and management, and was advised by experienced, qualified and independent advisors. The Special Independent Committee believes that the new and amended arrangements reflect reasonable and arm's length terms.
- The amendments to the Non-Competition Agreement expand its scope overall to provide SmartCentres with broader contractual protection that reflect the current and potential future scope of its development activities and ensures that Mitchell Goldhar's unique development skills are applied to create value for SmartCentres and its Unitholders.
- Mitchell Goldhar's reputation in the industry and his leadership role in SmartCentres' business and operations is expected to attract talented, knowledgeable and motivated development team members that could enhance SmartCentres' business and financial performance.
- The extension of the Voting Top-Up Right will maintain the status quo and, except for the extension of the time period during which the Voting Top-Up Right applies, there would be no substantive changes to the terms of the Voting Top-Up Right.

In making its recommendations, the Special Independent Committee also took into account a number of risks and other considerations associated with its recommendations in addition to those described elsewhere in this Circular, including, among others:

- The Special Independent Committee's recommendations are in large part predicated on the assumption that Mitchell Goldhar's significantly expanded role with SmartCentres' business will deliver substantial value to SmartCentres and the Unitholders, and there can be no assurance that this assumption will prove to be correct, in whole or in part.
- Mitchell Goldhar's role as Executive Chairman and principal of the Penguin group of companies is unique and there is limited public market data in Canada against which to compare Mitchell Goldhar's financial and other arrangements with SmartCentres.
- The analysis that the Special Independent Committee conducted and relied on is subject to a number of assumptions about the future performance and financial condition of SmartCentres. While the Special Independent Committee considered such assumptions to be reasonable in the circumstances, SmartCentres actual performance and financial condition may vary materially from that implied by such assumptions.

The Special Independent Committee also concluded, and the independent members of the Board concurred, that the related party aspects of the MG Amendments and the MG Amended Agreements were exempt from the formal valuation requirement and the majority of minority vote requirement set out in MI 61-101 as the collective fair market value thereof is less than 25% of the market capitalization of SmartCentres.

The foregoing discussion of the information and factors reviewed by the Special Independent Committee is not, and is not intended to be, exhaustive. In view of the wide variety of factors considered by the Special Independent Committee, the Special Independent Committee did not find it practicable to, and therefore did not, quantify or otherwise assign relative weight to specific factors in making its determination. The conclusions and recommendations of the Special Independent Committee were made after consideration of all of the above-noted factors in light of the collective knowledge of the members thereof of the operations, financial condition and prospects of SmartCentres and was also based upon the advice of its advisors.



Garry Foster  
Chair, Special Independent Committee

## **Performance Unit Award for Mitchell Goldhar**

Subject to the EIP being approved by Unitholders (see “Particulars of Matters to be Acted Upon – EIP”), SmartCentres, based on the unanimous recommendation of the Special Independent Committee, intends to grant Mr. Goldhar an award of 900,000 Performance Units under the EIP in January 2021. The performance period for this award will run from January 1, 2021 to December 31, 2027. The performance measures applicable to such Performance Units are as follows: 120,000 Performance Units with a Unit price threshold of \$26.00; 150,000 Performance Units with a Unit price threshold of \$28.00; 180,000 Performance Units with a Unit price threshold of \$30.00; 210,000 Performance Units with a Unit price threshold of \$32.00; and 240,000 Performance Units with a Unit price threshold of \$34.00. The applicable performance measures will be achieved on the date upon which the daily volume weighted average price of all Units traded on the TSX is equal to or exceeds the applicable Unit price threshold for 20 consecutive trading days. Once the applicable performance measure has been achieved, the vesting period for the applicable Performance Units will commence on the date that the applicable performance measure was achieved, and will end on the earlier of the third anniversary of the date that the applicable performance period was achieved and the end of the performance period. If Mr. Goldhar remains employed with SmartCentres or its related entities through the end of the term of his employment agreement, then provided that the applicable performance measures are achieved on or prior to the end of the performance period, the Performance Units will vest in accordance with their terms. If prior to the end of the term, he resigns his employment due to a change of control or if he is terminated without cause concurrent with or at any time after the occurrence of a change of control, then provided that the applicable performance measures are achieved prior to his termination date, the Performance Units will vest. If his employment with SmartCentres or its related entities terminates prior to the end of the term, then unvested Performance Units will be treated as set forth in the EIP. Mr. Goldhar has agreed to forfeit his 2018 and 2019 awards under the LTIP if he is awarded Performance Units.

## **Recommendations of the Special Independent Committee – EIP and MG Award**

On November 5, 2020, the Trustees, after receiving the unanimous recommendation of the Special Independent Committee, approved the adoption of the EIP (see “Particulars of Matters to be Acted Upon – EIP”). Subject to approval of the EIP by Unitholders at the Meeting, SmartCentres will grant an award of Performance Units under the EIP to Mitchell Goldhar as described above under “- Performance Unit Award for Mitchell Goldhar” (the “**MG Award**”). The Special Independent Committee, in accordance with its mandate and with the assistance of its independent advisors, designed the EIP and established the terms of the proposed MG Award. In doing so, the Special Independent Committee sought to ensure that Mitchell Goldhar’s compensation (and that of other members of SmartCentres’ senior management) are fully aligned with creating value for the Unitholders. As discussed above under “Report of the Special Independent Committee”, the Special Independent Committee engaged FPL to advise the Special Independent Committee in designing the EIP to achieve this objective, taking in account Mr. Goldhar’s essential role in helping SmartCentres realize the full potential of its pipeline of largescale, mixed-use development opportunities. The Special Independent Committee also recommended that other key members of SmartCentres’ management team be eligible to participate in the EIP, given their critical role in executing SmartCentres’ long-term strategy.

With the assistance of FPL, the Special Independent Committee considered various potential structures and terms for the plan, including the eligible participants, types of awards, performance criteria, vesting conditions and payouts. After careful deliberation and consultation with its advisors, the Special Independent Committee recommended the EIP and the proposed MG Award for the following principal reasons:

- The Special Independent Committee believes that the EIP will more effectively align the compensation of Mitchell Goldhar and other members of the senior management team than the existing LTIP, and the EIP will replace the LTIP for future performance periods.
- The proposed MG Award covers the Unit price performance period from January 1, 2021 until December 31, 2027 and therefore aligns Mr. Goldhar’s interests with the long-term interests of Unitholders.
- Based on an existing Unit price of \$21 (i) approximately \$860 million of incremental value for all Unitholders must be generated before any Performance Units subject to the MG Award are earned, and (ii) approximately \$2.24 billion of incremental value for all Unitholders must be generated in order for all Performance Units subject to the MG Award to be earned (which Performance Units would represent less than 1% of the additional value created for Unitholders).

- Mitchell Goldhar will earn more Performance Units at each applicable price target that is achieved, thus incentivizing the highest degree of performance as set out above in “ – Performance Unit Award for Mitchell Goldhar”.
- To protect against a potential strong appreciation in Unit price over a relatively short duration, any Performance Units that are earned by Mitchell Goldhar will be subject to a subsequent vesting period of the lesser of three years from the date such Performance Units are earned and the end of the seven year performance period, thereby ensuring a longer-term performance time horizon.
- To protect against short-term volatility, in order to be earned, each applicable Unit price milestone must continuously be met for a period of 20 consecutive trading days.
- Dividends are not paid on any unearned and unvested Performance Units (dividend equivalent Performance Units are accrued and will only be received on Performance Units that are ultimately earned and vest).
- Advice from FPL regarding the EIP and the MG Award, including its conclusions that, taking into account the difficulty to achieve the performance goals, as understood by FPL, and subsequent additional time-based vesting criteria of the MG Award, the potential award value is reasonable to reflect the significant contributions and involvement required of Mitchell Goldhar to achieve the performance milestones, and it will align Mitchell Goldhar’s compensation with the long-term interests of all Unitholders.

The recommendation of the EIP and the terms of the proposed MG Award were part of the Special Independent Committee’s broader review of all of the existing arrangements between SmartCentres and Mitchell Goldhar described above under “Report of the Special Independent Committee” and additional factors that the Special Independent Committee considered in recommending the EIP and the terms of the proposed MG Award are described therein.

The Compensation and Corporate Governance Committee will consider grants of additional awards under the EIP to other members of SmartCentres senior management team.

## **Summaries of Certain MG Amended Agreements**

### ***Executive Employment Agreement***

Mr. Goldhar’s employment agreement is between him, SmartCentres Management Services Inc. as the employer, and SmartCentres. The agreement confirms Mr. Goldhar’s position as Executive Chairman of SmartCentres. The agreement is for a fixed term, deemed to commence on February 14, 2018 and ending on December 31, 2025, unless earlier terminated in accordance with the agreement.

For his services, Mr. Goldhar receives a salary; customary benefits; and he is eligible to participate in SmartCentres’ associate incentive plan, Deferred Unit Plan and, if approved by Unitholders at the Meeting, the EIP.

Mr. Goldhar’s employment will terminate at the end of the term. Prior to the end of the term, Mr. Goldhar can resign on 6 months’ notice, or immediately after an Adverse Event (as defined in “Executive Compensation – Termination and Change of Control Benefits – Mitchell Goldhar, Executive Chairman”) or a change of control. Mr. Goldhar can be terminated for cause or, with payment of up to 12 months severance, without cause, prior to the expiry of the term.

Mr. Goldhar is subject to certain confidentiality obligations. He will also be subject to the Non-Competition Agreement.

### ***Penguin Services Agreement***

See “Executive Compensation - 2019 Compensation for the Named Executive Officers - Penguin Services Agreement”

### ***Non-Competition Agreement***

In connection with the entering into of his executive employment agreement, Mitchell Goldhar and companies owned by him entered into a new non-competition agreement with SmartCentres (the “**Non-Competition Agreement**”). The Non-Competition Agreement fully replaces and supersedes the non-competition agreement that the parties entered

into on May 28, 2015 (the “**2015 Non-Competition Agreement**”). The Non-Competition Agreement restricts Mitchell Goldhar and his companies from (i) investing in, acquiring, developing, redeveloping or managing the leasing, development or construction of real properties with Restricted Uses; (ii) developing, redeveloping or rezoning real property for specified Restricted Uses; and (iii) investing in, loaning funds to or guaranteeing debts of persons engaged in the business of investing, acquiring, developing, redeveloping or managing restricted properties. “**Restricted Uses**” include retail, office, multi-residential, hotels (other than resort hotels), seniors facilities, self-storage, industrial and certain new sector investments where SmartCentres has formally determined that it should make a material investment in a real estate sector that is not currently restricted (“**New Sector Investments**”). Such restrictions are in place until the later of (i) the date that is six months following the date of termination of Mitchell Goldhar’s employment pursuant to the executive employment agreement; and (ii) the date on which the Voting Top-Up Right expires or is waived by Mitchell Goldhar and are subject to certain exceptions described below.

Except pursuant to the Development Services Agreement, Mitchell Goldhar and his companies are also prohibited from soliciting for employment or contracting for the services of any person who is employed by SmartCentres or its affiliates.

Certain activities are permitted under the Non-Competition Agreement including, among others: (i) activities relating to any active business that sells goods, products and/or services (excluding any service that is leasing and/or management of restricted properties); (ii) the continuation of activities performed by Mitchell Goldhar and his companies prior to entering into the Non-Competition Agreement with respect to properties and activities that were not restricted under the 2015 Non-Competition Agreement; (iii) the continuation of activities that are New Sector Investments provided that Mitchell Goldhar or his companies engaged in such activities prior to SmartCentres deciding to pursue them; (iv) restricted activities where SmartCentres has delivered written notice that it does not intend to pursue such restricted activities; (v) developing, redeveloping or rezoning (x) certain properties owned by Mitchell Goldhar or his companies prior to entering the Non-Competition Agreement for Restricted Uses or (y) any real property for non-restricted uses (and limited Restricted Uses ancillary thereto); (vi) holding any investments inherited from deceased relatives; (vii) owning securities of any person that are issued as part of the consideration required to be paid pursuant to earnout arrangements; (viii) investing in, loaning funds and providing guarantees to certain non-restricted public entities where such activity would otherwise be a restricted activity provided that Mitchell Goldhar is a passive investor; (ix) investing in, loaning funds and providing guarantees to any publicly traded real estate operating company or real estate investment trust that has securities listed on a Canadian securities exchange (or their respective affiliates) provided that the amount of such investment, loan or guarantee (together with all prior investments, loans and guarantees in such entity and its affiliates) does not exceed \$100,000,000 and 5% of the equity interests (and 5% of the votes attaching to all equity securities) or 5% of the aggregate principal amount of debt of such entity and Mitchell Goldhar is a passive investor; and (x) investing in, loaning funds and providing guarantees to private entities where such activity would otherwise be a restricted activity provided that the amount of such investment, loan or guarantee (together with all prior investments, loans and guarantees in such entity and its affiliates) does not exceed \$50,000,000 and 30% of the equity interests (and 30% of the votes attaching to all equity securities) or 30% of the aggregate principal amount of debt of such entity and Mitchell Goldhar is a passive investor.

In the event there is a material breach by Mitchell Goldhar or his companies of their obligations under the Non-Competition Agreement as determined by the final award of an arbitrator which has not been cured, SmartCentres will have the right to terminate (i) Mitchell Goldhar’s employment for cause; and (ii) the Penguin Services Agreement.

The Non-Competition Agreement is an MG Amended Agreement and is subject to the Escrow Agreement. In the event that the Non-Competition Agreement is not released from escrow, the Non-Competition Agreement will not be in force and the 2015 Non-Competition Agreement will terminate.

### ***Development Services Agreement***

On November 5, 2020, SmartCentres and its affiliates entered into a supplemental agreement (the “**DSA Supplement**”) with Penguin Investments Inc. (“**Penguin Investments**”), Penguin Properties Inc. (“**Penguin**”) and SmartCentres Realty Inc., companies owned by Mitchell Goldhar. The DSA Supplement supplements and amends certain terms of the May 28, 2015 development services agreement (“**Development Services Agreement**”). The supplements and amendments made in the DSA Supplement will be deemed to come into force and effect as of July 1, 2020 and will expire on December 31, 2025 (the “**Effective Period**”).

Pursuant to the DSA Supplement, SmartCentres will no longer be the service provider in providing development services and will no longer receive the related development fees for the “VMC Project”, the “Thornhill Residential



Project” and the “First Vaughan Project” during the Effective Period, and Penguin Investments will instead provide such services and receive such fees during such period. SmartCentres has a 50% ownership interest in the “VMC Project”, but has no ownership interest in the “Thornhill Residential Project” and the “First Vaughan Project”. Penguin Investments may utilize employees of SmartCentres in order to, among other things, provide such development services and will compensate SmartCentres on a proportionate basis for the estimated total cost, including compensation, of all such employees that it utilizes.

During the Effective Period: (i) Penguin Investments shall be reimbursed for 50% of the land disposition fees payable pursuant to the Development Services Agreement that is payable in respect of the applicable Penguin company’s interest in the relevant project; (ii) the rights of the parties to terminate the Development Services Agreement in respect of certain projects, other than for cause, will be suspended; and (iii) Penguin Investments will pay to SmartCentres 50% of the development fees paid to Penguin Investments in connection with the 381 Wilson, Toronto property. Penguin Investments will also pay to SmartCentres: (A) 50% of the leasing, management, coordination and assignment fees paid to Penguin Investments in connection with the Richmond North, British Columbia property; and (B) 100% of all on-site personnel costs paid by SmartCentres at the Richmond North, British Columbia property. SmartCentres has no ownership interest in the 381 Wilson, Toronto property and the Richmond North, British Columbia property.

The DSA Supplement is an MG Amended Agreement and is subject to the Escrow Agreement. In the event that the DSA Supplement is not released from escrow, the terms of the existing Development Services Agreement will continue to apply, without the DSA Supplement.

### ***Omnibus Agreement***

On November 5, 2020, SmartCentres and Penguin, a company owned by Mr. Goldhar, entered into an omnibus agreement (“**Omnibus Agreement**”) pursuant to which, among other things, the parties agreed to amend certain provisions in the agreements governing the earn-out arrangements between SmartCentres, Mitchell Goldhar and other third parties (the “**Earn-Out Agreements**”). Pursuant to the Omnibus Agreement, Penguin has the option to extend the current earn-out period: (i) to December 31, 2022 for earn-out properties where the current earn-out period has expired prior to December 9, 2020 if Penguin gives written notice to the applicable owner of such earn-out property of its election to do so by March 1, 2021; and (ii) by 2 years for earn-out properties where the current earn-out period has not expired if Penguin gives written notice to the applicable owner of such earn-out property of its election to do so 30 days prior to the current earn-out expiry date. For earn-out properties that involve third parties, the foregoing extension option is subject to Penguin obtaining the approval of such third parties.

For each development parcel that is governed by the Earn-Out Agreements, SmartCentres is permitted to complete sale earn-out events in connection with such development parcel pursuant to which Penguin transfers the economic and financial benefits and rights of such development parcel to SmartCentres. This was previously prohibited pursuant to the terms of the Earn-Out Agreements. SmartCentres has also been given a right of first offer (“**ROFO**”) in connection with the sale of the economic and financial benefits and rights of any such development parcel.

The Earn-Out Agreements have also been amended such that, during the extended earn-out period, Mitchell Goldhar and other third parties are not permitted to receive limited partnership units (in various limited partnership subsidiaries of SmartCentres) in lieu of receiving all or a portion of net earn-out proceeds in cash upon the completion of a sale earn-out event unless such sale earn-out event is completed in accordance with the ROFO.

The Omnibus Agreement also provides for the payment by each of the parties of certain outstanding immaterial amounts between the parties.

The Omnibus Agreement is an MG Amended Agreement and is subject to the Escrow Agreement.

### ***Mezzanine Loans***

On November 5, 2020, SmartCentres, Calloway Financial Inc. (the “**Lender**”), as lender, Penguin, a company owned by Mr. Goldhar, as guarantor, and other companies owned by Mr. Goldhar (the “**Borrowers**”), as borrowers, entered into amendments (the “**Loan Agreements**”) of the loan agreements for the Vaughan, Aurora (SW), Innisfil, Pitt Meadows, Salmon Arm, Toronto Eastern and Caledon Airfield properties. Pursuant to the Loan Amendments, the maturity date for each loan has been extended to August 31, 2028 unless the applicable Borrower delivers a written notice to the Lender stating that it does not wish for the maturity date to be extended. The interest rate structure for each loan has been revised as follows:

<b>Tranche</b>	<b>To the later of the existing/initial Maturity Date and May 31, 2022</b>	<b>For Extended Maturity Date</b>
Tranche 1 Principal	BA + 2.75%	BA + 4.0%
Tranche 2 Principal	BA + 4.20%	BA + 5.0%
Accrued Interest on Tranche 1 & 2	BA + 4.20 %	BA + 5.0%

For each loan, if, for a given month, the total weighted average interest rate on the loan tranches based on the foregoing rates exceeds 6.5% to 7.5% per annum (with such percentage differing per loan) (the “**Interest Cap**”), then the interest rate for each loan tranche shall be equal to the Interest Cap per annum for such month.

For each loan, the lender has been provided with a right of first offer applicable to certain sales by the borrower and for each loan other than for Innisfil and Salmon Arm (for which SmartCentres already owns a 50% interest), the existing options to purchase terms have been revised to contemplate mixed-use developments and to set out a framework to revise the existing option terms to apply to mixed-use developments.

For each loan, the current guarantee amount has been increased to match the total of the loan facility. For each loan, that guarantee amount is subject to reduction in accordance with terms of the applicable guarantee based on the value of the property and amount of debt secured by the property.

The amendments to the Loan Agreements are MG Amended Agreements and are subject to the Escrow Agreement.

## EXECUTIVE COMPENSATION

### Letter from the Chair of the Corporate Governance and Compensation Committee

Fellow Unitholders,

On behalf of the Corporate Governance and Compensation Committee and the Board, we are pleased to provide you with an overview of our key accomplishments in 2019 and describe how our executive compensation program attracts and retains talent that is essential to delivering against our long-term strategy. Our goal is to provide you with clear information that helps you understand how our compensation program is structured and how we assess performance.

#### *Compensation Structure and Philosophy*

SmartCentres' compensation structure is intended to attract, retain, motivate and reward highly qualified executives while aligning the interests of our executives with Unitholders. The compensation structure promotes a pay-for-performance culture using performance objectives which are expected to deliver long-term value for our Unitholders.

SmartCentres' compensation program for its executives consists of the following key components:

- *Base Salary:* Salary ranges are based on peer comparator groups with individual base pay reflecting merit and potential.
- *Annual Incentive Plan:* SmartCentres rewards the achievement of annual trust-level and individual performance goals through the payment of annual incentive bonuses. The annual incentive opportunity is a percentage of base pay. Target award payouts generally range from 50-70% of base salary, and up to 125% in the case of the Executive Chairman under his new employment agreement.
- *Deferred Unit Plan:* Our named executive officers can elect to receive their annual incentive bonus in the form of Deferred Units and receive an equal contribution of Deferred Units from SmartCentres. The Deferred Unit Plan promotes a greater alignment of interests between our executives and Unitholders by more closely linking their compensation with the market price of SmartCentres' Units. Vesting and payout of matching Deferred Units occurs over a number of years.
- *Long Term Incentive Plan ("LTIP"):* The LTIP encourages retention and rewards longer term value creation. Annual grants are made with specific measures and objectives that lead to long-term value creation. The payout is 100% performance conditioned and occurs following the three year performance period. The Board intends to replace the LTIP with the EIP for future years, if the EIP is approved by a majority of Unitholders at the Meeting.

SmartCentres also has ownership guidelines in place requiring each executive officer to maintain an equity position in SmartCentres to further align the interests of executives with the interests of Unitholders.

Unitholders are being asked to vote on the EIP at the Meeting. A key purpose of the EIP is to further align the interests of key employees and officers of SmartCentres with those of Unitholders in the long term by allowing for longer performance periods than the current three-year period under the LTIP. As described in further detail in "Particulars of Matters to be Acted Upon – EIP", the performance period for the initial awards granted under the EIP will be seven years.

The recommendation of the Special Independent Committee and of the Board, and the reasons therefore, to approve the EIP is discussed in further detail in this Circular under "Report of the Special Independent Committee – Recommendations of the Special Independent Committee – EIP and MG Award".

#### *SmartCentres' Performance in 2019*

SmartCentres measures the performance of its executive officers against a set of trust-level performance metrics and personal-level performance metrics reflective of SmartCentres' strategic goals. Trust-level performance metrics for 2019 include objectives that drive SmartCentres' overall financial and operating performance, including targets for Funds from Operations ("FFO"), developments, leasing and occupancy levels and staff turnover. SmartCentres' 2019 financial and operating performance highlights included the following:

- Maintained a high level of occupancy at 98.2%

- FFO with one time adjustment and before Transactional FFO increased by \$17.6 million or 4.8% to \$386 million and decreased by \$0.02 or 0.9% to \$2.26 on a per Unit basis, primarily as a result of dilution associated with the Units issued in SmartCentres' \$230 million equity offering in January 2019
- Completed and transferred approximately 308,000 square feet of retail and office tenancies via earnouts and developments providing an average unleveraged yield of 6.1%
- Successfully initiated 19 new developments on existing lands in retirement home, condo and rental apartment, and self-storage businesses, independently or with joint venture participants
- Successfully initiated seven new development or redevelopment sites

### *Pay and Performance*

Awards were granted in 2019 as part of the annual bonus for the named executive officers based on our annual performance as outlined above. Considering market conditions, management delivered another year of good results as evidenced by the 96.11% overall achievement of the target trust-level performance metrics and sub-metrics.

Over the performance period from January 1, 2017 to December 31, 2019, total Unitholder return was only at the 18<sup>th</sup> percentile of our performance peer group in the S&P/TSX Capped REIT Index. As a result of this percentile being below the minimum threshold of 40%, the final payout multiplier was 0% for our 2017 performance units (being the LTIP Units). See “ – Equity Compensation Plan Information – Long Term Incentive Plan”.

### *Executive Chairman*

Mr. Goldhar was appointed as Executive Chairman of SmartCentres on February 14, 2018. In accepting that role, Mr. Goldhar assumed responsibilities beyond that of a non-executive Board Chairman role, such as active oversight and leadership in advancing the corporate strategy, advancement of leasing, finance, asset management and property management matters, participation in investor relations and oversight of development and intensification initiatives. Mr. Goldhar's new employment agreement (which is an MG Amended Agreement and is subject to the Escrow Agreement) is for a fixed term ending on December 31, 2025 (unless terminated earlier) with such term coinciding with the term of the Voting Top-Up Right, if approved by Unitholders. Under the new employment agreement, Mr. Goldhar is to receive a salary and customary benefits and he is eligible to participate in SmartCentres' associate incentive plan, Deferred Unit Plan and, if approved by Unitholders, the EIP (see “Report of Special Independent Committee – Performance Unit Award for Mitchell Goldhar”). The new employment agreement is effective from February 14, 2018 reflective of Mr Goldhar's role from that date. The Board, upon the recommendation of the Special Independent Committee, together with the advice of its external compensation consultants, has determined that the total compensation package for the position of Executive Chairman, is appropriate and reasonable. (See “Report of Special Independent Committee – Recommendations of the Special Independent Committee – EIP and MG Award” and “Report of the Special Independent Committee - Summaries of Certain MG Amended Agreements – Executive Employment Agreement”).

Pursuant to the Penguin Services Agreement (as defined below under “– 2019 Compensation for the Named Executive Officers - Penguin Services Agreement”) which was amended and restated on November 5, 2020 and which is an MG Amended Agreement subject to the Escrow Agreement, Penguin Investments, a company owned by Mr. Goldhar, has agreed to provide SmartCentres and its affiliates with a broad range of services in connection with the future development of all of its development projects until December 31, 2025. In exchange for those services, SmartCentres will pay Penguin Investments an annual fee which consists of: (i) a fixed fee which is paid on a quarterly basis; and (ii) an annual variable fee that is based on the achievement of the trust-level targets for “New Development Initiatives” and “New Projects” that SmartCentres uses to measure the performance of its executive officers, and annual targets (other than such trust-level targets) of a similar nature as to what SmartCentres uses to measure the performance of its executive officers, all as determined by the Board from time to time. (See “Report of the Special Independent Committee” and “– 2019 Compensation for the Named Executive Officers – Penguin Services Agreement”).

### *2019 Say-on-Pay*

At last year's annual general meeting of Unitholders held on May 31, 2019, the advisory “say-on-pay” resolution received the support of 96.33% of the votes cast. Notwithstanding this positive result, we continue to seek Unitholder feedback on our executive compensation program. At the 2020 annual general meeting of Unitholders, we will again hold an advisory “say-on-pay” vote and the Board will continue to consider the results from this year's and future advisory votes on executive compensation when considering future executive compensation arrangements.

The Corporate Governance and Compensation Committee believes that SmartCentres' executive compensation philosophy and structure are effectively aligned with performance and Unitholder interests. We will continue to monitor the effectiveness of SmartCentres' compensation program, taking into account feedback from our Unitholders during this year's "say-on-pay" vote.

***Communication with the Board***

The Trustees are always interested in receiving Unitholders' views about SmartCentres, its governance and its operation. The Board oversees systems for receiving feedback from Unitholders and it monitors feedback received by SmartCentres. Unitholders may communicate with the Lead Independent Trustee by mailing (by regular mail or other means of delivery) to the head office of SmartCentres at 3200 Highway 7, Vaughan, Ontario L4K 5Z5 in a sealed envelope marked 'Private and Confidential – Attention Lead Independent Trustee'.

We are committed to providing you with complete information regarding our executive compensation program. On behalf of the Corporate Governance and Compensation Committee and the Board, we thank you for taking the time to read our disclosure and encourage you to vote in favour of our approach to executive compensation.

Sincerely,

A handwritten signature in black ink, appearing to read 'JM' or similar initials, with a stylized flourish.

Jamie McVicar  
Chair, Corporate Governance and Compensation Committee

## Compensation Discussion and Analysis

### *Objectives and Design*

SmartCentres' goal is to provide Unitholders with stable and growing cash distributions by focusing on the ownership and development of high quality retail properties and expansion of its development initiatives to include rental apartments, condominiums, townhouses, retirement homes, office buildings and self-storage facilities, enhancing the value through effective management, leasing and development of its assets, and effective control of long-term cost of capital. The objective of SmartCentres' executive compensation program is to attract, retain and motivate qualified individuals to and within its senior management team. To achieve that goal, SmartCentres is committed to a compensation policy that is competitive, drives business performance and encourages Unit ownership.

SmartCentres' executive compensation program is designed to provide commensurate reward for services rendered and appropriate incentive for the senior management team to implement both short-term and long-term strategies aimed at increasing Unitholder value and creating economic value for SmartCentres. SmartCentres' executive compensation strategy is therefore significantly weighted towards pay-for-performance components. Actual incentive rewards are directly linked to the results of SmartCentres and its senior management team. Financial and operational performance targets set each year represent targeted improvements to SmartCentres' financial and operational results and are therefore aligned with Unitholder interests. While performance targets are set each year, the Corporate Governance and Compensation Committee is not tied to these criteria; it retains the discretion to alter the performance targets in response to outside economic conditions.

### *Components*

The main components of SmartCentres' executive compensation program are base salary, annual incentive bonuses and long-term incentives in the form of Deferred Units granted in accordance with the Deferred Unit Plan and LTIP Units granted in accordance with the LTIP.

#### *Base Salary*

SmartCentres reviews the compensation practices of other large Canadian publicly traded real estate entities with similar attributes to SmartCentres (and in particular those with market capitalizations in excess of \$2 billion) to ensure the base salary and annual and long-term incentives that it is paying to its executive officers are competitive. Some of these large Canadian publicly traded real estate entities for 2019 include:

- (a) Allied Properties Real Estate Investment Trust
- (b) Boardwalk Real Estate Investment Trust
- (d) Canadian Apartment Properties Real Estate Investment Trust
- (e) Chartwell Retirement Residences
- (f) Choice Properties Real Estate Investment Trust
- (g) Cominar Real Estate Investment Trust
- (h) Dream Office Real Estate Investment Trust
- (i) First Capital Real Estate Investment Trust (formerly First Capital Realty Inc.)
- (j) Granite Real Estate Investment Trust
- (k) H&R Real Estate Investment Trust
- (l) RioCan Real Estate Investment Trust

SmartCentres also reviews the compensation practices of other real estate entities through the Real Property Association of Canada Compensation Survey. The survey is comprised of over 50 publicly traded and private real estate entities from Canada. The goal of the review is to allow SmartCentres to retain the flexibility to change compensation as it deems necessary, while providing a guideline to ensure compensation levels remain competitive and within the overall goals of SmartCentres. The survey data is only one factor in the determination of compensation. In determining Mitchell Goldhar's compensation, SmartCentres also considered real estate private equity firms and real estate developers in North America as well as the other considerations described under "Report of the Special Independent Committee".

## Annual Incentives – Bonuses

SmartCentres pays annual incentive bonuses to its named executive officers in order to incentivize and reward them for the positive performance of SmartCentres and individually in a given year. Annual incentive bonuses are paid to a maximum, generally, of 50% of each executive officer’s annual base salary (70% commencing in 2020 for the President and Chief Executive Officer of SmartCentres and under his new employment agreement, 100% for 2018/2019 and 125% thereafter for the Executive Chairman). Such annual incentive bonuses are based upon the assessment by the Board of the performance of each executive officer. SmartCentres measures the performance of its executive officers against a set of trust-level performance metrics and personal-level (i.e. position-specific) performance metrics reflective of SmartCentres’ strategic goals. Generally speaking, the trust-level performance metrics, in aggregate, account for 70% of target bonus payable for 2019 to each named executive officer and the personal-level performance metrics, in aggregate, account for 30%, depending on the particular named executive officer’s employment or service agreement, except for the Executive Chairman for whom the trust-level performance metrics account for 100% of target bonus payable. Throughout the year, the Board may review the underlying strategy of SmartCentres and re-evaluate the targets. These performance metrics are guidelines for gauging performance and are not intended to be inflexible targets. As such, the criteria for the calculation of bonuses and the payment of such bonuses remain at the discretion of the Board.

### Trust-Level Performance Metrics

Trust-level performance metrics include the broad, trust-wide objectives that drive SmartCentres’ overall financial and operating performance. Many of these metrics are similar to the prior year’s targets and include Funds From Operations (“FFO”), leasing and occupancy levels, new development initiatives that consist of new non-retail types of developments and new projects and staff turnover. The weighting of the metrics may be revised annually to reflect shifting priorities.

For each of the trust-level performance metrics, where appropriate, SmartCentres establishes a “base” level of achievement, a “target” level of achievement and a “maximum” level of achievement. When established, it is expected by SmartCentres that the “base” levels of achievement for each performance metric are attainable with reasonable diligence while attainment of the “target” and “maximum” levels of achievement would result from superior performance. As a guideline, achievement of “base” levels would earn 50% of the particular metric, achievement of “target” levels would earn 100% of the particular metric and achievement of “maximum” levels would earn up to 150% of a particular metric. If “base” levels are not achieved, a 0% payout would result with respect to the applicable performance metric. The Corporate Governance and Compensation Committee has discretion when the results fall between the “base” and “target” levels and the “target” and “maximum” levels to determine the achievement level.

For the fiscal year ended December 31, 2019, the trust-level performance metrics included the following items, respective weighting and results achieved by SmartCentres:

Target Performance Description	Specific Performance Measures	Weight	Specific Performance Measurement for Fiscal 2019 (Base – Target – Maximum)	Specific Performance Achievement in Fiscal 2019	
				Actual Performance	Weighting Achieved
<i>Financial Results</i>	Meet or exceed annual FFO per Unit budget, before transactional FFO	25%	\$2.24 – \$2.27 – \$2.30 per Unit	\$2.26	20.83%
	Total	25%			20.83%
<i>Leasing/ Occupancy</i>	New leasing – Vacancy (committed leases only)	10%	400K – 575K – 750K sq. ft.	417,692 sq. ft.	5.50%
	New leasing – Excluding Vacancy (committed leases only)	10%	400K – 600K – 700K sq. ft.	642,675 sq. ft.	12.13%
	Maintain occupancy level, as measured at end of each quarter	10%	97.6% – 97.8% to 98.0% – 98.2	98.1% (average)	13.76%
	Total	30%			31.39%
<i>New Development Initiatives</i>	Initiate different types of new non-retail developments independently or with joint venture relationships <sup>(1)</sup>	30%	9 – 14 – 22 projects, by type	19 projects, by type	30.00%

Target Performance Description	Specific Performance Measures	Weight	Specific Performance Measurement for Fiscal 2019 (Base – Target – Maximum)	Specific Performance Achievement in Fiscal 2019	
				Actual Performance	Weighting Achieved
	Total	30%			30.00%
<i>New Projects</i>	Initiate new development or redevelopment sites	10%	3 – 5 – 8 sites	7.333 sites	13.89%
	Total	10%			13.89%
<i>Talent Management</i>	Maintain/reduce staff attrition	5%	12.5% – 10.0% – 7.5%	15.02%	0.00%
	Total	5%			0.00%
<b>AGGREGATE TOTAL</b>		<b>100%</b>			<b>96.11%</b>

Notes:

- (1) Different types of new non-retail developments include self-storage, retirement, apartments, condos, homes, and other, each of which have different weightings to arrive at the Trust-level target.

During 2019, SmartCentres' management delivered another year of good results as evidenced by the 96.11% overall achievement of the target trust-level performance metrics and sub-metrics.

#### Personal-Level Performance Metrics

Personal-level performance metrics are job-specific and either build upon trust-level performance metrics or address specific priorities for each position to align with overall corporate strategy. As a result, the targets and weighting are more likely to vary year over year as they are tailored to emerging initiatives.

For fiscal 2019, key priorities for each of the named executive officers were focused on each executive's responsibilities under SmartCentres' strategic plan, with an emphasis on sustaining and growing the existing business and developing new growth opportunities. In addition, each named executive officer was also evaluated against goals and objectives related to such named executive officer's position, functional responsibilities and contribution to operating as an effective team.

For the following named executive officers, the weights given to the aggregate total trust-level versus personal-level performance metrics in respect of 2019 are 70% and 30%, respectively. Based on these weights, the overall achievement percentage of the total bonus for 2019 are as follows: Mr. Forde, 94.0%; Mr. Sweeney, 88.7%; Mr. Gobin, 93.4% and Mr. Pambianchi, 85.4%. Mr. Goldhar's annual incentive bonus in respect of 2019 is based on 100% trust-level performance metrics and therefore his overall achievement percentage is also 96.11%.

#### Equity Incentive Plans

##### Deferred Unit Plan

SmartCentres provides its named executive officers with the right to participate in the Deferred Unit Plan in order to promote a greater alignment of interests between them and the Unitholders by more closely linking their compensation with the market price of the Units. Each of the named executive officers elected to take 100% of their 2019 cash incentive bonus in Deferred Units. For further information, including information about the vesting provisions, see "Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan".

##### Inducement Award Agreements

SmartCentres may grant awards of Deferred Units as an employment inducement to new officers of SmartCentres, provided that any such award recipient was not previously employed and not previously an insider of SmartCentres, all in accordance with the applicable laws and rules of the TSX (each, an "**Inducement Award**"). For further



information, see “Executive Compensation – Equity Compensation Plan Information – Inducement Award Agreements”.

### Long Term Incentive Plan

The Corporate Governance and Compensation Committee believes that a significant component of the compensation of certain officers and employees of SmartCentres should be based on the total Unitholder return, which includes the amount of monthly distributions paid on the Units. To that end, SmartCentres has an LTIP that certain senior executives may participate in at the discretion of the Board. The purpose of the LTIP is to promote a greater alignment of interests between senior executives and Unitholders by linking a component of the executives’ compensation to the total Unitholder return compared to a peer group of public entities (the “**Peer Group**”), which is currently comprised of the entities included in the S&P/TSX Capped REIT Index at both the beginning and end of each respective performance period. The compensation of a participating senior executive under the LTIP will also be partly dependent on the amount of monthly distributions paid on the Units. For further information, including information about the vesting provisions of the LTIP, see “Executive Compensation – Equity Compensation Plan Information – Long Term Incentive Plan”. Following the adoption of the EIP, SmartCentres does not intend to grant further awards under the LTIP.

### *Executive Compensation Claw-back*

The Board has adopted an executive compensation claw-back policy concerning future awards made under SmartCentres’ annual and equity incentive plans. Under this policy, which applies to all executives, the Board may, in its sole discretion, to the fullest extent permitted by governing laws and to the extent it determines that it is in SmartCentres’ best interest to do so, require reimbursement of all or a portion of annual and equity incentive compensation received by an executive. The Board may seek reimbursement of full or partial compensation from an executive or former executive officer in situations where:

- (a) the amount of incentive compensation received by the executive or former executive officer was calculated based upon, or contingent on, the achievement of certain financial results that were subsequently the subject of or affected by a restatement of all or a portion of SmartCentres’ financial statements;
- (b) the executive officer engaged in gross negligence, intentional misconduct or fraud that caused or partially caused the need for the restatement; and
- (c) the incentive compensation payment received would have been lower had the financial results been properly reported.

Pursuant to the LTIP, LTIP Units may be forfeited where there has been any material restatement of SmartCentres’ quarterly or annual financial statements or any fraud, material and wilful breach of the executive’s employment agreement which is materially detrimental to SmartCentres or any of its subsidiaries, or material and wilful breach of any code of conduct or policy of SmartCentres or any of its subsidiaries which is materially detrimental to SmartCentres or any of its subsidiaries on the part of the executive. In the event there is a material restatement of SmartCentres’ financial statements, the Board may adjust the number of LTIP Units in each award that have not yet vested which have a performance period that overlaps with or is in the year following the financial period for which the financial statements have been restated. In the event of misconduct by an executive, the Board may determine the number of LTIP Units the executive will be required to forfeit in its sole discretion.

### *Perquisites and Personal Benefits*

Perquisites and personal benefits provided to senior management reflect competitive practices and particular business needs. Generally speaking they are not a significant component of SmartCentres’ executive compensation program.

### *Review / Modifications*

SmartCentres’ executive compensation program is reviewed and considered at least annually by the Corporate Governance and Compensation Committee to determine if the objectives of the executive compensation program are being achieved and whether any modifications to that program are required. This includes a review of base salaries payable, incentive bonuses payable and the degree of participation in the Deferred Unit Plan and the LTIP. It also includes a review of the metrics used to assess performance, the targets established with respect to those performance metrics, whether previously established targets have been achieved and to what degree, and whether the performance

metrics and targets are still appropriate in light of the then current real estate market, stock market and general economic conditions as well as the overall business strategy of SmartCentres. The Corporate Governance and Compensation Committee considers the establishment of new performance metrics and related targets to be used to assess executive officer performance and determines executive officer compensation on a going-forward basis. In completing this review, the Corporate Governance and Compensation Committee considers the recommendations of management, the President and Chief Executive Officer and Executive Chairman of SmartCentres in particular. The Corporate Governance and Compensation Committee structures management's incentive plan to reward both short and long-term objectives. This balanced approach mitigates the risk of management pursuing a strategy that would negatively impact the price of the Units over the long-term. SmartCentres also prohibits short selling of the Units and the purchasing of financial instruments to hedge a decrease in market value of the Units held by management. Upon completion of that review, the Corporate Governance and Compensation Committee makes its recommendations with respect to SmartCentres' executive compensation program to the full Board. The Board then approves the executive compensation program, including the individual components, subject to any modifications it deems necessary.

### ***Management of Compensation Risk***

In conjunction with its annual executive compensation review, the Corporate Governance and Compensation Committee considers the implications of the risks associated with SmartCentres' compensation policies and practices. In particular, the policies and practices of the incentive bonus structure are scrutinized, focusing on the detailed bonus metrics and calculations, including:

- (a) the risks of the chosen metrics encouraging management to take inappropriate or excessive risks;
- (b) the risk of the chosen metrics being affected by variables beyond the control of management; and
- (c) the risks of possible errors and omissions in the input data and/or calculations used to determine achievement of bonuses.

In mitigating such risks, the Corporate Governance and Compensation Committee relies on, in part:

- (a) the limits on management's discretion to undertake material business transactions without the input and/or consent of the Board and/or its committees;
- (b) the role of the Audit Committee, with the input from SmartCentres' auditors in its quarterly review of financial data, to ensure accuracy in such key measures that are used in bonus metrics;
- (c) the role of the Investment Committee, in its review and approval of all major acquisitions and development proposals and financings, to ensure the same are in the best interests of SmartCentres; and
- (d) the receipt and review by the Corporate Governance and Compensation Committee of the input data and calculations used to determine achievement of bonuses, as reviewed by SmartCentres' internal auditor.

In addition, SmartCentres' committee membership contains cross-representation whereby at least one member of the Corporate Governance and Compensation Committee sits on the Audit Committee and the Investment Committee. Finally, the core components of the trust-level performance metrics remain largely unchanged from year to year allowing the Corporate Governance and Compensation Committee to monitor management's performance in regard to inappropriate or excessive risks. The Corporate Governance and Compensation Committee is of the view that the risks arising from SmartCentres' compensation policies and practices are not reasonably likely to have a material adverse effect on SmartCentres and that such policies and practices are appropriate and consistent with industry standards.

### ***Hugessen Consulting Inc. and FPL Associates***

In 2019, the Corporate Governance and Compensation Committee again retained the services of Hugessen Consulting Inc. ("**Hugessen**") and for the first time, the Special Independent Committee retained the services of FPL commencing April 12, 2019. Each independent executive compensation consultant provided advice on matters related to executive compensation and corporate governance. Hugessen was originally retained on February 15, 2013 at the direction of the Chair of the Corporate Governance and Compensation Committee. At the direction of the Special Independent Committee, FPL provided compensation services related to the overall compensation framework for the role of the Executive Chair.

The following services were provided to the Corporate Governance and Compensation Committee by Hugessen during the year ended December 31, 2019:

- (a) support the decision-making process related to payouts under the current executive annual and long-term incentive plans;
- (b) assessment of SmartCentres' governance and compensation practices;
- (c) review of SmartCentres' management information circular disclosure for the year ended December 31, 2019;
- (d) benchmark executive compensation pay levels and mix relative to the compensation peer group.

Hugessen did not benchmark the compensation paid to Penguin pursuant to the Penguin Services Agreement or opine on the development of the EIP.

The following services were provided to the Special Independent Committee by FPL during the year ended December 31, 2019:

- (a) advise and design an overall compensation framework for the role of the Executive Chairman.

Fees paid to Hugessen and FPL during 2019 and 2018 regarding services provided to SmartCentres are as follows:

Year	Executive Compensation Related Fees
Year ended December 31, 2019 (FPL)	\$25,147
Year ended December 31, 2019 (Hugessen)	\$21,240
Year ended December 31, 2018 (Hugessen)	\$30,153

Hugessen and FPL do not provide any services to SmartCentres other than those provided to the Corporate Governance and Compensation Committee and Special Independent Committee, respectively, and the fees paid to them represented less than 1% of SmartCentres' annual revenue in each of fiscal 2019 and fiscal 2018.

The executive compensation recommendations are made by the Corporate Governance and Compensation Committee alone and may reflect factors and considerations other than the information and advice provided by Hugessen and FPL.

### ***Non-GAAP Financial Measures***

In the subsection "Annual Incentives – Bonuses" above, there are references to "FFO" and "transactional FFO", which are not financial measures under International Financial Reporting Standards ("IFRS") generally accepted accounting principles ("GAAP") and have no standardized meaning prescribed by IFRS.

FFO is a non-GAAP financial measure of operating performance widely used by the Canadian real estate industry based on the definition set forth by the Real Property Association of Canada ("REALpac"), which published a White Paper describing the intended use of FFO, last revised in February 2019. It is SmartCentres' view that IFRS net income does not necessarily provide a complete measure of SmartCentres' recurring operating performance. This is primarily because IFRS net income includes items such as fair value changes of investment property that are subject to market conditions and capitalization rate fluctuations and gains and losses on the disposal of investment properties, including associated transaction costs and taxes, which management believes are not representative of a company's economic earnings. For these reasons, SmartCentres' has adopted REALpac's definition of FFO, which was created by the real estate industry as a supplemental measure of operating performance. FFO is computed as IFRS consolidated net income and comprehensive income attributable to Unitholders adjusted for items such as, but not limited to, unrealized changes in the fair value of investment properties and transaction gains and losses on the acquisition or disposal of investment properties calculated on a basis consistent with IFRS.

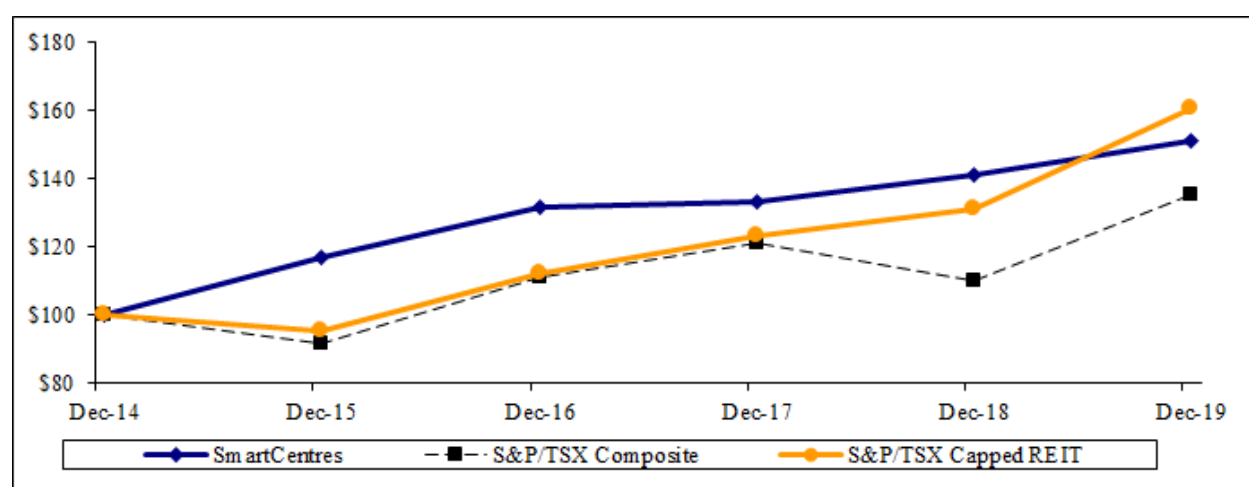
Transactional FFO is a non-GAAP financial measure that represents the net financial/economic gain (loss) resulting from a partial sale of an investment property to a third party. Transactional FFO is calculated as the difference between the actual selling price and actual costs for the subject investment property. Because SmartCentres intends to continue to establish a significant number of joint ventures with partners with whom it plans to co-develop mixed-use projects,

SmartCentres expects such gains (losses) to be recurring and therefore represent part of the SmartCentres' overall distributable earnings.

As FFO and transactional FFO are not standardized, as prescribed by IFRS, they may not be comparable to similarly titled measures presented by other real estate investment trusts. Neither FFO nor transactional FFO is intended to represent operating profits for any period nor should either measure be viewed as an alternative to net income, cash flow from operating activities or other measures of financial performance calculated in accordance with IFRS. A full definition of such non-IFRS terms and examples of reconciliations of such terms to the most directly comparable measure calculated in accordance with IFRS are provided in SmartCentres' most recent management discussion and analysis.

## Performance Graph

The following graph, and the table below it, compares the cumulative total Unitholder return on the Units of SmartCentres with (i) the cumulative total return of the S&P/TSX Composite Index for the five-year period ending December 31, 2019\* and (ii) the cumulative total return of the S&P/TSX Capped REIT Index for the five-year period ending December 31, 2019\*.



\* Assuming the initial value of the investment in Units of SmartCentres on the TSX was \$100 at the close of trading on December 31, 2014. Values include distributions payable but exclude brokerage fees and all income taxes.

	31-Dec-14	31-Dec-15	31-Dec-16	31-Dec-17	31-Dec-18	31-Dec-19
SmartCentres	\$100.00	\$116.87	\$131.53	\$133.20	\$141.07	\$151.14
S&P/TSX Composite	\$100.00	\$91.68	\$111.01	\$121.11	\$110.34	\$135.59
S&P/TSX Capped REIT	\$100.00	\$95.35	\$112.16	\$123.21	\$131.00	\$160.85

### Trends

The performance of the Units outpaced the performance of the S&P/TSX Composite Index, the broad market index of Canadian listed companies, in each of the past five years. The performance of the Units outpaced the performance of the S&P/TSX Capped REIT Index, the index of SmartCentres' Peer Group, in each of 2015, 2016, 2017, and 2018, while slightly underperforming as compared to the S&P/TSX Capped REIT Index in 2019. The total executive compensation paid by SmartCentres to its named executive officers has modestly reflected the superior performance of the Units compared to the S&P/TSX Capped REIT Index in each of 2015, 2016, 2017, and 2018 and to the broader market appearing in the S&P/TSX Composite Index in the past five years.

The total compensation value paid to the named executive officers of SmartCentres for the 2019 financial year was \$6,146,792 (2018 – \$6,050,562) which amounts to 1.68% (2018 – 1.65%) of SmartCentres' 2019 FFO (see "Executive Compensation – Compensation Discussion and Analysis – Non-GAAP Measures") and 1.98% (2018 – 2.12%) of SmartCentres' 2019 annual declared distributions to Unitholders.

## CEO Compensation Over Time

The following table compares the grant date value of compensation awarded to the former Chief Executive Officer, Huw Thomas, and the current Chief Executive Officer, Peter Forde, in respect of performance as Chief Executive Officer with the actual value received from compensation awards. Since 2015, Unitholder realized value has exceeded CEO realized compensation.

Year	Total Direct Compensation Awarded(\$) <sup>(1)</sup>	Actual Total Direct Compensation Value Realized/Realizable as of December 31, 2019 (\$)	Value of \$100		
			Period	CEO <sup>(2)</sup>	Unitholder <sup>(3)</sup>
2015	2,216,276	2,856,314	1/1/15 to 12/31/19	\$128.88	\$151.14
2016	2,088,079	1,557,825	1/1/16 to 12/31/19	\$74.61	\$129.33
2017	1,577,981	1,167,997	1/1/17 to 12/31/19	\$73.82	\$114.91
2018 <sup>(4)</sup>	1,323,390	1,224,710	1/1/18 to 12/31/19	\$92.07	\$113.47
2019	1,791,457	1,390,476	1/1/19 to 12/31/19	\$77.62	\$107.14
			Weighted Average	\$95.07	\$130.12

Notes:

- (1) Includes all compensation set out in the Summary Compensation Table at “ – 2019 Compensation for the Named Executive Officers – Summary Compensation Table” below.
- (2) Represents the actual value of CEO compensation for each \$100 awarded in total direct compensation during the fiscal year indicated.
- (3) Represents the cumulative value of a \$100 investment in Units made on the first day of the period indicated, assuming reinvestment of distributions.
- (4) In 2018, \$524,640 was awarded to Mr. Thomas (excluding \$61,000 earned as Trustee fees in the form of Deferred Units in lieu of cash and \$61,000 in Matching Deferred Units) and \$798,750 was awarded to Mr. Forde for his role as President and Chief Executive Officer.

## 2019 Compensation for the Named Executive Officers

### Summary Compensation Table

The following table sets forth the annual compensation earned by each of SmartCentres’ named executive officers for the three most recently completed financial years.

Name and Principal Position	Year	Salary (\$)	Unit-Based Awards (\$)		Annual Non-Equity Incentive Plan Compensation <sup>(3)</sup> (\$)	All Other Compensation <sup>(4)</sup> (\$)	Total Compensation (\$)
			Deferred Unit Plan <sup>(1)</sup>	LTIP <sup>(2)</sup>			
Mitchell Goldhar <i>Executive Chairman</i>	2019 <sup>(5)</sup>	250,000	240,275	250,000	240,275	127,246 <sup>(6)</sup>	1,107,796 <sup>(7)</sup>
	2018 <sup>(8)</sup>	219,863 <sup>(9)</sup>	180,903	219,863	180,903	130,000 <sup>(10)</sup>	931,532 <sup>(7)</sup>
Peter Forde <i>President and Chief Executive Officer</i>	2019	600,000	338,317	500,000	338,317	14,823	1,791,457
	2018	492,480	345,107 <sup>(11)</sup>	400,000	245,107	14,806	1,497,500 <sup>(12)</sup>
	2017	480,000	238,296	400,000	238,296	14,779	1,371,371

Name and Principal Position	Year	Salary (\$)	Unit-Based Awards (\$)		Annual Non-Equity Incentive Plan Compensation <sup>(3)</sup> (\$)	All Other Compensation <sup>(4)</sup> (\$)	Total Compensation (\$)
			Deferred Unit Plan <sup>(1)</sup>	LTIP <sup>(2)</sup>			
Peter Sweeney <i>Chief Financial Officer</i>	2019	473,000	209,839	275,000	209,839	14,823	1,182,501
	2018	456,570	183,861	260,000	183,861	14,807	1,099,099
	2017	445,000	172,349	260,000	172,349	14,779	1,064,477
Rudy Gobin <i>Executive Vice President, Portfolio Management and Investments</i>	2019	425,000	198,426	165,000	198,426	18,823	1,005,675
	2018	410,400	168,346	150,000	168,346	18,807	915,899
	2017	400,000	237,960 <sup>(13)</sup>	150,000	162,960	18,779	969,699
Mauro Pambianchi <i>Chief Development Officer</i>	2019	453,900	193,877	205,000	193,877	12,709	1,059,363
	2018	453,900	180,017	205,000	180,017	12,707	1,031,641
	2017	453,900	171,506	205,000	171,506	13,414	1,015,326

Notes:

- (1) The value shown is determined as at the date of grant of each award and excludes distribution equivalent amounts earned on the Deferred Units. Amounts include Matching Deferred Units granted under the Deferred Unit Plan. For further information, see “Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan”.
- (2) The value shown is determined as at the date of grant of each award and excludes distribution equivalent amounts earned on the LTIP Units. For further information, see “Executive Compensation – Equity Compensation Plan Information – Long Term Incentive Plan”.
- (3) These amounts represent annual cash incentive bonuses awarded to the named executive officers. Each of the named executive officers can elect to receive up to 100% of their annual incentive bonus in Deferred Units, in lieu of cash, pursuant to the Deferred Unit Plan. Each of the named executive officers elected to take 100% of their annual cash incentive bonus in Deferred Units for each of the years shown in the table.
- (4) These amounts include vehicle allowances and medical, life and other insurance premiums. The amounts shown exclude distribution equivalent amounts earned on the Deferred Units and LTIP Units as the distribution equivalents were factored into the disclosed grant date fair value of the awards.
- (5) In the event that Mitchell Goldhar’s new employment agreement, which is an MG Amended Agreement and subject to the Escrow Agreement, becomes effective and is released from escrow, his compensation for 2019 will be as follows: (i) salary: \$350,000; (ii) unit-based awards: Deferred Unit Plan: \$336,386; LTIP: nil; (iii) annual non-equity incentive plan compensation: \$336,386; (iv) all other compensation: \$139,246; and (v) total compensation \$1,162,018.
- (6) The amounts presented include \$63,000 of Trustee retainer fees paid to Mr. Goldhar, which he elected to receive in the form of Deferred Units, as well as the related \$63,000 in Matching Deferred Units.
- (7) Penguin Investments, a company owned by Mr. Goldhar, receives an annual fee of \$3.5 million pursuant to the Original Penguin Services Agreement. In the event that the Penguin Service Agreement, which is an MG Amended Agreement and subject to the Escrow Agreement, becomes effective and is released from escrow, Penguin Investments will receive an additional \$1,912,808 in increased Fixed Service Fees and new Variable Service Fees in respect of services in 2018 and an additional \$3,529,330 in increased Fixed Services Fees and new Variable Service Fees in respect of services in 2019. For further information see “Penguin Services Agreement” below.
- (8) In the event that Mitchell Goldhar’s new employment agreement, which is an MG Amended Agreement and subject to the Escrow Agreement, becomes effective and is released from escrow, his compensation for 2018 will be as follows: (i) salary: \$293,151; (ii) unit-based awards: Deferred Unit Plan: \$241,205; LTIP: nil; (iii) annual non-equity incentive plan compensation: \$241,205; (iv) all other compensation: \$140,553; and (v) total compensation \$916,114.
- (9) Base salaries presented are actual amounts earned for 2019, 2018 and 2017. For Mr. Goldhar, the amount shown for 2018 represents the prorated amount of his annual base salary for 2018 (\$250,000). Mr. Goldhar became Executive Chairman effective February 14, 2018.
- (10) The amounts presented include \$65,000 of Trustee retainer fees paid to Mr. Goldhar, which he elected to receive in the form of Deferred Units, as well as the related \$65,000 in Matching Deferred Units.
- (11) This amount includes a \$100,000 bonus paid in the form of Deferred Units to Mr. Forde related to his leadership on special projects and new initiatives. This incentive bonus will vest in accordance with the Deferred Unit Plan and does not include any Matching Deferred Units.

- (12) This amount includes \$698,750 in respect of Mr. Forde's role as President and Chief Operating Officer and \$798,750 in respect of Mr. Forde's role as President and Chief Executive Officer.
- (13) This amount includes a \$75,000 bonus paid in the form of Deferred Units to Mr. Gobin in connection with the OneREIT acquisition. This incentive bonus will vest in accordance with the Deferred Unit Plan and does not include any Matching Deferred Units.

### ***Penguin Services Agreement***

On November 5, 2020, SmartCentres and its affiliates entered into an amended and restated services agreement (the "**Penguin Services Agreement**") with Penguin Investments, a company owned by Mitchell Goldhar, pursuant to which Penguin Investments agreed to provide a broad range of services to SmartCentres in connection with the future development of its development projects until the earlier of (i) December 31, 2025; and (ii) the date that Mitchell Goldhar is no longer actively involved with Penguin Investments. In exchange for those services, SmartCentres will pay Penguin Investments an annual fee which consists of: (A) a fixed service fee (the "**Fixed Service Fee**") which is paid on a quarterly basis; and (B) an annual variable service fee (the "**Variable Service Fee**") that is based on the achievement of the trust-level targets for "New Development Initiatives" and "New Projects" that SmartCentres uses to measure the performance of its executive officers (the "**Development Targets**") and other annual targets (other than Development Targets) of a similar nature as to what SmartCentres uses to measure the performance of its executive officers, all as determined by the Board from time to time (the "**Additional Targets**") (see "Compensation Discussion and Analysis - Trust Level Performance Metrics").

The Penguin Services Agreement is effective from February 2018 reflective of the additional services provided by Penguin Investments from that time. The Fixed Service Fee is \$517,808 for the period commencing on February 1, 2018 and ending on March 30, 2018 and \$1,000,000 for each subsequent quarter during the 2018 calendar year. The Variable Service Fee payable for 2018 is \$1,473,082.19. For each quarter during 2019, the Fixed Service Fee was \$1,050,000. The Variable Service Fee payable for 2019 was \$2,829,330. For each quarter during 2020, the Fixed Service Fee is \$1,127,280.

For the 2020 calendar year and thereafter, the Penguin Services Agreement provides that the Variable Service Fee will be based on the achievement of the Development Targets and the Additional Targets and will be awarded in accordance with the following thresholds:

(a) in respect of the achievement of the Development Targets:

- (i) an amount equal to 140% of the Development Targets Amount will be awarded if and only if 150% of the Development Targets are achieved;
- (ii) an amount equal to 100% of the Development Targets Amount will be awarded if and only if 100% of the Development Targets are achieved; and
- (iii) an amount equal to 60% of the Development Targets Amount will be awarded if and only if 50% of the Development Targets are achieved; and

(b) in respect of the Additional Targets:

- (i) an amount equal to 140% of the Additional Targets Amount will be awarded if and only if 150% of the Additional Targets are achieved;
- (ii) an amount equal to 100% of the Additional Targets Amount will be awarded if and only if 100% of the Additional Targets are achieved; and
- (iii) an amount equal to 60% of the Additional Targets Amount will be awarded if and only if 50% of the Additional Targets are achieved.

For the 2020 calendar year, the "Development Targets Amount" is \$2,254,560 and the "Additional Targets Amount" is \$563,640.

If in any calendar year only one of: (x) 50% of the Development Targets; or (y) 50% of the Additional Targets is achieved for such calendar year but the other 50% of the Development Targets or 50% of the Additional Targets, as

applicable, is not achieved, then the Variable Service Fee shall be payable to Penguin Investments for such calendar year only in respect of the component that was achieved and no Variable Service Fee shall be payable to Penguin Investments in respect of the component that was not achieved.

For the 2021 calendar year and each calendar year during the term of the Penguin Services Agreement thereafter, the amount of the Fixed Service Fee, the Development Targets Amount and the Additional Targets Amount will be increased by an amount equal to the weighted average percentage increase in the annual salaries of certain of the executive officers of SmartCentres for such calendar year.

The Penguin Services Agreement is an MG Amended Agreement and is subject to the Escrow Agreement. In the event that the Penguin Services Agreement is not released from escrow, the Penguin Services Agreement will be of no effect and only the amounts under the Original Penguin Services Agreement will be payable and the Original Penguin Services Agreement will terminate as of the date of the Meeting.

### *Outstanding Unit-Based Awards*

The following table indicates for each named executive officer all Unit-based awards outstanding at December 31, 2019.

Name	Unit-Based Awards <sup>(1)</sup>					
	Number of Deferred Units That Have Not Vested <sup>(2)</sup> (#)	Market or Payout Value of Deferred Units That Have Not Vested <sup>(3)</sup> (\$)	Market or Payout Value of Vested Deferred Units Not Paid Out or Distributed <sup>(3)</sup> (\$)	Number of LTIP Units That Have Not Vested <sup>(4)</sup> (#)	Market or Payout Value of LTIP Units That Have Not Vested <sup>(3)</sup> (\$)	Market or Payout Value of Vested LTIP Units Not Paid Out or Distributed <sup>(3)</sup> (\$)
Mitchell Goldhar	6,086	189,950	2,505,687	16,573	60,009	0
Peter Forde	29,602	923,884	1,828,509	30,588	108,045	0
Peter Sweeney	157	4,885	7,084	18,344	66,538	0
Rudy Gobin	25,595	798,813	4,195,226	12,211	43,158	0
Mauro Pambianchi	21,278	664,081	813,853	12,666	47,287	0

Notes:

- (1) These figures include Deferred Units and LTIP Units received as distribution equivalents under the Deferred Unit Plan and LTIP, respectively.
- (2) These awards were issued pursuant to the Deferred Unit Plan.
- (3) Based on the market value of the Units as at December 31, 2019.
- (4) These awards were issued pursuant to the LTIP, although the awards granted under the LTIP are only settled in cash. As of December 31, 2019, each of the named executive officers were participants under the LTIP.

### *Incentive Plan Awards – Value Vested or Earned During the Year*

The following table indicates for each named executive officer the value of all indicated compensation awards that vested and were earned during 2019.

Name	Unit-Based Awards - Value Vested During the Year <sup>(1)(2)</sup>		Annual Non-Equity Incentive Plan Compensation – Value Earned During the Year (\$) <sup>(3)</sup>
	Deferred Units (\$)	LTIP Units (\$)	
Mitchell Goldhar	312,536	0	240,275
Peter Forde	329,439	0	338,317
Peter Sweeney	322,361	0	209,839
Rudy Gobin	425,354	0	198,426
Mauro Pambianchi	261,065	0	193,877



Notes:

- (1) These awards were issued pursuant to the Deferred Unit Plan, the LTIP, or Inducement Award agreements, although the awards granted under the LTIP are only settled in cash. These figures include Deferred Units received as distribution equivalents under the Deferred Unit Plan. As of December 31, 2019, each of the named executive officers were participants under the LTIP.
- (2) Based on the market value of the Units as at the date of vesting.
- (3) This column includes the full amount of the annual incentive bonuses even if a named executive officer elected to receive all or a portion as Deferred Units.

## **Termination and Change of Control Benefits**

### ***Mitchell Goldhar, Executive Chairman***

Mr. Goldhar's new employment agreement, which is an MG Amended Agreement and is subject to the Escrow Agreement (see "Report of the Special Independent Committee – Summaries of Certain MG Amended Agreements – Executive Employment Agreement"), provides that he will be entitled to receive a specified cash payment in the case of termination without cause or upon his resignation following the occurrence of an Adverse Event if such Adverse Event occurs within 6 months following a change of control of SmartCentres,

Upon termination without cause prior to the end of the term of his employment, Mr. Goldhar is entitled, subject to execution of a release, to a severance payment that will be an amount equal to the lesser of (A) 100% of his then current annual salary and bonus based on 100% target payout, and (B) an amount equal to 100% of the salary and bonus based on 100% target payout which would be payable to Mr. Goldhar for the remainder of the term of his employment, in each case plus continuing group health and welfare benefits for twelve months following termination (the "Separation Package").

If Mr. Goldhar resigns following an Adverse Event which occurred within 6 months following a change of control of SmartCentres, Mr. Goldhar is entitled to receive the Separation Package.

In addition, notwithstanding whether a change of control has occurred, if Mr. Goldhar resigns following an Adverse Event, he will be eligible to receive a pro-rated bonus for such year. "Adverse Event" is defined in Mr. Goldhar's employment agreement as: (a) a material diminution in Mr. Goldhar's duties, responsibilities, title or reporting relationships; (b) a reduction in his base salary; or (c) a material reduction in his variable compensation opportunities.

The treatment of any Deferred Units and any Performance Units held by Mr. Goldhar will be governed by the terms and conditions of the awards as set out in the relevant plan documents and award agreements, except as modified by Mr. Goldhar's new employment agreement. Notwithstanding the relevant plan documents and award agreements, as set out in Mr. Goldhar's new employment agreement, upon his resignation due to a change of control or the termination of his employment without cause that is substantially concurrent with or at any time after a change of control, any unvested Deferred Units shall automatically vest upon the date upon which the change of control is deemed to have occurred, and any unvested Performance Units for which the performance measures have been met shall automatically vest as of the date which is immediately prior to the date upon which the change of control is deemed to have occurred.

As Mr. Goldhar's new employment agreement was not in effect on December 31, 2019, he did not have any contractual entitlements to any amounts had his employment been terminated on December 31, 2019. For information on the treatment of any Deferred Units and LTIP Units held by Mr. Goldhar as of December 31, 2019 in such circumstances, refer to "Treatment of Deferred Units and LTIP Units" and "Outstanding Unit Based Awards".

### ***Peter Forde, President and Chief Executive Officer***

Mr. Forde's employment agreement provides that he will be entitled to receive a specified cash payment in the case of termination without cause or a change of control of SmartCentres.

Upon termination without cause, Mr. Forde is entitled to a severance payment, within 30 days of termination, that will be an amount equal to 2 times his then current annual compensation, including salary and bonus based on 100% target payout, and car allowance, plus continuing group health and welfare benefits for 24 months following the termination. All unvested Deferred Units under the Deferred Unit Plan credited to Mr. Forde will vest immediately and be redeemable by Mr. Forde upon termination without cause and any other amounts payable as of the date of termination under the LTIP will be redeemable in accordance with the terms of the LTIP.

If Mr. Forde is not offered continued employment on a comparable basis after a change of control event, he will be entitled to receive, within 30 days of such termination, an amount equal to 2 times his then current annual compensation, including base salary and bonus based on 100% target payout, and car allowance, plus continuing group health and welfare benefits for 24 months following such termination.

The table below sets out the estimated incremental amounts that would have been payable by SmartCentres to Mr. Forde, had his employment been terminated on December 31, 2019. The table includes base salary, bonus, car allowance and benefits, as applicable. For information on the treatment of any Deferred Units and LTIP Units held by Mr. Forde in such circumstances, refer to “– Treatment of Deferred Units and LTIP Units” and “– Outstanding Unit-Based Awards”.

<b>Resignation</b>	<b>Termination without Cause</b>	<b>Death</b>	<b>Disability</b>	<b>Change of Control</b>
\$nil	\$1,959,835.92	\$nil	\$nil <sup>(1)</sup>	\$1,959,835.92

Notes:

- (1) Pursuant to SmartCentres’ employee disability policy, if the amount of employment insurance received by an employee upon short-term disability is less than 55% of that employee’s salary at the time that disability occurred, SmartCentres will pay to the employee an amount equal to the difference between the amount that is 55% of that employee’s salary at the time that disability occurred and the amount received by the employee pursuant to his or her employment insurance for a period of up to 16 weeks. The figure above does not include this additional payment.

***Peter Sweeney, Chief Financial Officer***

Mr. Sweeney’s employment agreement provides that he will be entitled to receive a specified cash payment in the case of termination without cause or a change of control of SmartCentres.

Upon termination without cause, Mr. Sweeney is entitled to a severance payment, within 30 days of his termination, that will be an amount equal to 1.5 times his then current annual base salary, plus an amount equal to 1.5 multiplied by the actual annual bonus paid to Mr. Sweeney in the year preceding the termination plus continuing group benefits for 8 weeks following termination.

If Mr. Sweeney is not offered continued employment on a comparable basis after a change of control event, he will be entitled to receive, within 30 days of such termination, an amount equal to 1.5 times his then current annual base salary, plus an amount equal to 1.5 multiplied by the actual annual bonus paid to Mr. Sweeney in the year preceding such termination.

The table below sets out the estimated incremental amounts that would have been payable by SmartCentres to Mr. Sweeney, had his employment been terminated on December 31, 2019. The table includes base salary, bonus, car allowance and benefits, as applicable. For information on the treatment of any Deferred Units and LTIP Units held by Mr. Sweeney in such circumstances, refer to “– Treatment of Deferred Units and LTIP Units” and “– Outstanding Unit-Based Awards”.

<b>Resignation</b>	<b>Termination without Cause</b>	<b>Death</b>	<b>Disability</b>	<b>Change of Control</b>
\$nil	\$986,509.65	\$nil	\$nil <sup>(1)</sup>	\$985,291.50

Note:

- (1) Pursuant to SmartCentres’ employee disability policy, if the amount of employment insurance received by an employee upon short-term disability is less than 55% of that employee’s salary at the time that disability occurred, SmartCentres will pay to the employee an amount equal to the difference between the amount that is 55% of that employee’s salary at the time that disability occurred and the amount received by the employee pursuant to his or her employment insurance for a period of up to 16 weeks. The figure above does not include this additional payment.

***Rudy Gobin, Executive Vice President, Portfolio Management and Investments***

Mr. Gobin’s employment agreement provides that he will be entitled to receive a specified cash payment in the case of termination without cause or a change of control of SmartCentres.

Upon termination without cause, Mr. Gobin is entitled to a severance payment, within 30 days of his termination, that will be an amount equal to 1.5 times his then current annual compensation, including base salary and bonus based on

the target amount for the relevant year, and car allowance, plus continuing group benefits for 18 months following termination.

If Mr. Gobin is not offered continued employment on a comparable basis after a change of control event, he will be entitled to receive, within 30 days of such termination, an amount equal to 1.5 times his then current annual compensation, including salary and target bonus for the relevant year, and car allowance, plus continuing group benefits for 18 months following such termination and all amounts due under the Deferred Unit Plan and LTIP in accordance with the terms of the plans.

The table below sets out the estimated incremental amounts that would have been payable by SmartCentres to Mr. Gobin, had his employment been terminated on December 31, 2019. The table includes base salary, bonus, car allowance and benefits, as applicable. For information on the treatment of any Deferred Units and LTIP Units held by Mr. Gobin in such circumstances, refer to “– Treatment of Deferred Units and LTIP Units” and “– Outstanding Unit-Based Awards”.

<b>Resignation</b>	<b>Termination without Cause</b>	<b>Death</b>	<b>Disability</b>	<b>Change of Control</b>
\$nil	\$992,126.94	\$nil	\$nil <sup>(1)</sup>	\$992,126.94

Note:

- (1) Pursuant to SmartCentres’ employee disability policy, if the amount of employment insurance received by an employee upon short-term disability is less than 55% of that employee’s salary at the time that disability occurred, SmartCentres will pay to the employee an amount equal to the difference between the amount that is 55% of that employee’s salary at the time that disability occurred and the amount received by the employee pursuant to his or her employment insurance for a period of up to 16 weeks. The figure above does not include this additional payment.

***Mauro Pambianchi, Chief Development Officer***

Mr. Pambianchi’s employment agreement provides that he will be entitled to receive a specified cash payment in the case of termination without cause or a change of control of SmartCentres.

Upon termination without cause, Mr. Pambianchi is entitled to a severance payment, within 30 days of termination, that will be an amount equal to 1.5 times his then current annual compensation, including salary and bonus based on 100% target payout, and car allowance, plus continuing group health and welfare benefits for 18 months following the termination.

If Mr. Pambianchi is not offered continued employment on a comparable basis after a change of control event, he will be entitled to receive, within 30 days of such termination, an amount equal to 1.5 times his then current annual compensation, including base salary and bonus based on 100% target payout, and car allowance, plus continuing group health and welfare benefits for 18 months following such termination.

The table below sets out the estimated incremental amounts that would have been payable by SmartCentres to Mr. Pambianchi, had his employment been terminated on December 31, 2019. The table includes base salary, bonus, car allowance and benefits, as applicable. For information on the treatment of any Deferred Units and LTIP Units held by Mr. Pambianchi in such circumstances, refer to “– Treatment of Deferred Units and LTIP Units” and “– Outstanding Unit-Based Awards”.

<b>Resignation</b>	<b>Termination without Cause</b>	<b>Death</b>	<b>Disability</b>	<b>Change of Control</b>
\$nil	\$1,047,980.88	\$nil	\$nil <sup>(1)</sup>	\$1,047,980.88

Note:

- (1) Pursuant to SmartCentres’ employee disability policy, if the amount of employment insurance received by an employee upon short-term disability is less than 55% of that employee’s salary at the time that disability occurred, SmartCentres will pay to the employee an amount equal to the difference between the amount that is 55% of that employee’s salary at the time that disability occurred and the amount received by the employee pursuant to his or her employment insurance for a period of up to 16 weeks. The figure above does not include this additional payment.

### ***Treatment of Deferred Units and LTIP Units***

Any Deferred Units and LTIP Units held by any of the named executive officers at the end of such named executive officer's employment will be treated in accordance with the Deferred Unit Plan, the LTIP and any Inducement Award agreement, as applicable, subject, in the case of LTIP Units, to a named executive officer's employment agreement. See "Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan", "– Long Term Incentive Plan" and "– Inducement Award Agreements".

### **Equity Compensation Plan Information**

The following table provides a summary as of December 31, 2019 of the security-based compensation plans pursuant to which equity securities of SmartCentres may be issued.

<b>Plan Category</b>	<b>Units To Be Issued Upon Exercise of Outstanding Deferred Units (#)</b>	<b>Units Remaining Available for Future Issuance Under the Deferred Unit Plan (#)</b>
Equity compensation plans approved by Unitholders – <i>Deferred Unit Plan</i> <sup>(1)</sup>	1,025,582 <sup>(2)</sup>	661,426 <sup>(3)</sup>
Equity compensation plans not approved by Unitholders – <i>Inducement Awards</i>	-	-

Notes:

- (1) Pursuant to the Deferred Unit Plan, the aggregate number of Units authorized for issuance upon the redemption of all Deferred Units granted under the Deferred Unit Plan is 2,000,000. A total of 312,992 Units have been issued upon the redemption of Deferred Units issued under the Deferred Unit Plan. SmartCentres has also issued a further 1,025,582 Deferred Units which have not yet been redeemed, leaving 661,426 Deferred Units available for future grants (assuming that all outstanding Deferred Units are redeemed for Units).

SmartCentres may, from time to time, grant awards of Deferred Units under Inducement Award agreements. Except as otherwise specified in an Inducement Award agreement, such awards are granted upon the terms and conditions set out in the Deferred Unit Plan. The Deferred Units granted under any Inducement Award agreement are deducted from the number of Deferred Units reserved for future grants under the Deferred Unit Plan.

- (2) Represents 0.7% of the number of issued and outstanding Units as of December 31, 2019. As of October 26, 2020, there were 1,191,580 Units to be issued upon exercise of outstanding Deferred Units (representing 0.8% of the issued and outstanding Units as of October 26, 2020).
- (3) Represents 0.5% of the number of issued and outstanding Units as of December 31, 2019. As of October 26, 2020, there were 494,703 Units which remained available for future issuance under the Deferred Unit Plan (representing 0.3% of the issued and outstanding Units as of October 26, 2020).

### ***Annual Burn Rate***

In accordance with the requirements of section 613 of the TSX Company Manual, the following table sets out the annual burn rate of the Deferred Units granted under the Deferred Unit Plan, SmartCentres' only security-based compensation arrangement during the relevant times, for each of 2017, 2018 and 2019. The burn rate is calculated by dividing the number of Deferred Units granted under the Deferred Unit Plan during the relevant fiscal year by the weighted average number of Units outstanding for such fiscal year.

	<b>2019</b>	<b>2018</b>	<b>2017</b>
Number of Deferred Units granted under Deferred Unit Plan	192,861	157,449	148,899
Weighted average of outstanding Units	170,581,531	161,507,550	157,722,407
Annual burn rate	0.11%	0.10%	0.09%

### ***Deferred Unit Plan***

The Deferred Unit Plan is administered by the Corporate Governance and Compensation Committee. The purpose of the Deferred Unit Plan is to promote a greater alignment of interests between the Trustees, officers and employees of SmartCentres and/or its subsidiaries and Unitholders.

Trustees, officers and senior employees of SmartCentres and/or its subsidiaries are eligible to participate in the Deferred Unit Plan. Each eligible person is given the right to elect to be a participant of the Deferred Unit Plan. A person who elects to be a participant will be paid the amount set out in an election notice delivered by the participant to SmartCentres, which cannot exceed any limit in effect as determined by the Corporate Governance and Compensation Committee or the Board, if applicable, and initially cannot exceed:

- (a) in respect of a Trustee or an executive officer, the annual board retainer (including committee fees, attendance fees and additional fees and retainers to committee chairs) or the annual bonus, as applicable, paid by SmartCentres to that Trustee or executive officer for services rendered in a calendar year;
- (b) in respect of senior leadership holding the title of executive vice president, senior vice president or vice president, 50% of the annual bonus paid by SmartCentres to that employee for services rendered in a calendar year; and
- (c) in respect of senior managers holding the title of senior director or director, 25% of the annual bonus paid by SmartCentres to that employee for services rendered in a calendar year;

(the “**DUP Elected Amount**”) in the form of Deferred Units in lieu of cash. SmartCentres will match the DUP Elected Amount for each participant such that the number of Deferred Units issued to each participant will be equal in value to two times the DUP Elected Amount (“**Matching Deferred Units**”) (i.e., if a participant elects to be paid \$100 of their annual bonus or Trustee fees in the form of Deferred Units, SmartCentres matches that election by issuing that the participant a further \$100 worth of Matching Deferred Units, subject to certain vesting conditions).

The number of Deferred Units (including fractional Deferred Units) granted on an award date under the Deferred Unit Plan will be calculated by dividing (i) the dollar amount of a participant’s DUP Elected Amount by (ii) the market value of a Unit on January 1 of the year of grant or such later date as the Board may specify calculated based on the volume weighted average trading price of the Units as of the last ten trading days prior to January 1.

Deferred Units are not considered Units and do not entitle a participant to any Unitholder rights. One Deferred Unit is equivalent to one Unit. A participant may designate or change a beneficiary for purposes of the Deferred Unit Plan by delivering a notice to the Senior Vice President, Human Resources and Corporate Services of SmartCentres. Deferred Units and the rights of a participant under the Deferred Unit Plan are otherwise non-transferable and non-assignable.

Generally, Deferred Units (other than Matching Deferred Units and Deferred Units received as distribution equivalents) granted to participants are fully vested when granted. Matching Deferred Units granted to non-employee Trustees vest immediately upon grant. Matching Deferred Units granted to other participants vest in accordance with the following schedule:

- (a) 50% of the Matching Deferred Units vest on the earlier of (1) the third anniversary of the award date and (2) February 27 of the third year following the award date;
- (b) 25% of the Matching Deferred Units vest on the earlier of (1) the fourth anniversary of the award date and (2) February 27 of the fourth year following the award date; and
- (c) 25% of the Matching Deferred Units vest on the earlier of (1) the fifth anniversary of the award date and (2) February 27 of the fifth year following the award date.

Unvested Deferred Units credited to a participant vest immediately and are redeemable by the participant (or his or her beneficiary) on the date the participant ceases to be an officer or employee of SmartCentres or a subsidiary of SmartCentres for any reason other than termination for cause, voluntary resignation or retirement unless otherwise provided for in the participant’s employment agreement. In the case of termination for cause or voluntary resignation, all of the participant’s unvested Matching Deferred Units will be forfeited and cancelled as of the termination date. In the case of retirement, unvested Matching Deferred Units held by senior officers shall vest one year after retirement (or, if later, the date the employee is no longer subject to non-competition obligations) and may be forfeited if the employee competes during that period. Unvested Matching Deferred Units held by participants other than senior officers shall vest immediately on retirement. For purposes of the Deferred Unit Plan, “retirement” means the employee has reached a threshold based on age and years of service, has given 6 months advance notice of the retirement, is not competing with SmartCentres and is not employed for cash compensation in excess of 60% of the employee’s actual total annual cash compensation from SmartCentres in the preceding 12 months.

A participant's vested Deferred Units may be redeemable in whole or in part on the date the participant files a written notice of redemption with the Senior Vice President, Human Resources and Corporate Services of SmartCentres. The participant will receive, within five business days after the termination date or redemption date, as applicable, a whole number of Units equal to the whole number of vested Deferred Units of the participant, net of any applicable withholding taxes. Participants have no right to receive any fractional Units or any cash payment in lieu of fractional Units. The Deferred Units will be cancelled upon the issuance of Units upon redemption. Alternatively, a participant may elect to receive cash in respect of some or all of the Deferred Units to be redeemed (the "**Cash Units**"), in which event SmartCentres will, at its election, either (i) pay to the participant, within five business days of redemption, an amount equal to the market value of the Cash Units, less applicable withholding taxes or (ii) issue such number of Units equal to the number of Cash Units and arrange to sell such Units on behalf of the participant as soon as practical, and pay to the participant the proceeds of such sale, less any applicable withholding taxes. Matching Deferred Units will be forfeited to the extent that, prior to vesting, the Deferred Units to which such Matching Deferred Units relate are redeemed.

Whenever cash distributions are paid on Units, additional Deferred Units will be credited to the participant's Deferred Unit account as distribution equivalents. The number of additional Deferred Units will be calculated by dividing (i) the amount determined by multiplying (a) the number of Deferred Units in the participant's Deferred Unit account on the record date for the payment of the distribution by (b) the distribution paid per Unit, by (ii) a percentage of the market value of a Unit (such percentage to correspond to the percentage applied to the market price of Units for purposes of the distribution reinvestment plan of SmartCentres then in effect (or, if no such plan is then in effect, the last distribution reinvestment plan of SmartCentres that was in effect)) on the distribution payment date calculated based on the ten day volume weighted average trading price of the Units. Such additional Deferred Units granted as distribution equivalents vest in the same manner in proportion to the underlying Deferred Units to which they relate.

Unitholder approval is required for any amendment to the Deferred Unit Plan that (i) increases the number of Units reserved for issuance under the Deferred Unit Plan, (ii) increases the percentage of a participant's annual bonus or retainer that such participant may elect to receive in the form of Deferred Units beyond 100%, (iii) increases the percentage of the DUP Elected Amount to be matched by SmartCentres beyond 100% of the DUP Elected Amount, (iv) extends eligibility to participate in the Deferred Unit Plan to persons not currently eligible to participate, (v) permits entitlements under the Deferred Unit Plan to be transferred other than for normal estate settlement purposes, (vi) permits awards other than those specifically contemplated in the Deferred Unit Plan to be made under the Deferred Unit Plan, (vii) increases or removes the 10% limits on Units reserved for issuance to or issued to insiders under the Deferred Unit Plan, or (viii) deletes or removes the range of amendments which require approval of Unitholders. Subject to the foregoing matters, the Board may amend, suspend or terminate the Deferred Unit Plan or any provision of the Deferred Unit Plan, provided that the consent of a participant will be required where such amendment, suspension or termination materially adversely affects the rights already accrued under the Deferred Unit Plan by such participant. Without limiting the general amendment powers described in the previous sentence, Unitholder approval is not required for amendments of the Deferred Unit Plan which (i) make formal, minor or technical modification to any of its provisions, including amendments of a 'housekeeping' nature, (ii) correct any ambiguity, defective provisions, error or omission in its provisions, (iii) amend the vesting provisions of the Deferred Units or (iv) make any other amendment that does not require Unitholder approval under applicable laws or the rules of the TSX, provided, however, that no such act will diminish any rights accrued in respect of grants of Deferred Units made prior to the effective date of such amendment.

As of December 31, 2019, SmartCentres had 144,038,363 Units outstanding (not including the 27,239,942 Units issuable upon the exercise or conversion of the Exchangeable Securities outstanding). The aggregate number of Units authorized for issuance upon redemption of all Deferred Units granted under the Deferred Unit Plan cannot exceed 2,000,000, or approximately 1.4% of the outstanding Units of SmartCentres as at December 31, 2019, or any greater number of Units as may be determined by the Board and approved by the Unitholders and, if required, by any relevant stock exchange or other regulatory authority. However, (i) at no time can the number of Units reserved for issuance to insiders of SmartCentres pursuant to outstanding Deferred Units, together with the number of Units reserved for issuance to such persons pursuant to any other compensation arrangements, exceed 10% of the then outstanding Units; and (ii) the number of Units issued to insiders of SmartCentres pursuant to outstanding Deferred Units together with the number of Units issued to such persons pursuant to any other compensation arrangements, within any one year period, cannot exceed 10% of the then outstanding Units.

#### ***Inducement Award Agreements***

SmartCentres may grant awards of Deferred Units to new officers of SmartCentres under an Inducement Award

agreement with the approval of the Board. The purpose of the Inducement Award agreements is to induce persons not previously employed and not previously an insider of SmartCentres to become a member of SmartCentres' executive team. Except as otherwise specified in an Inducement Award agreement, the awards are granted upon the terms and conditions set out in the Deferred Unit Plan. Deferred Units granted under the Inducement Award agreements are deducted from the number of Deferred Units reserved for future grants under the Deferred Unit Plan.

### ***Long Term Incentive Plan***

The LTIP is administered by the Board, which may delegate all or any of its powers to the Corporate Governance and Compensation Committee. The purpose of the LTIP is to provide officers and key employees of SmartCentres with the opportunity to acquire "**Performance Units**" under the LTIP ("**LTIP Units**") in order to allow them to participate in the long-term success of SmartCentres and to promote a greater alignment of their interests with the interests of the Unitholders. These goals are achieved by linking a component of the participants' compensation to the price performance of the Units compared to the Peer Group and to the distributions paid on the Units.

LTIP Units vest on the third calendar year-end after the grant date and are settled for cash, with the amount of the payment determined based on performance over the specified period of time as an incentive to contribute to SmartCentres' long-term success. LTIP Units are non-transferable and non-assignable.

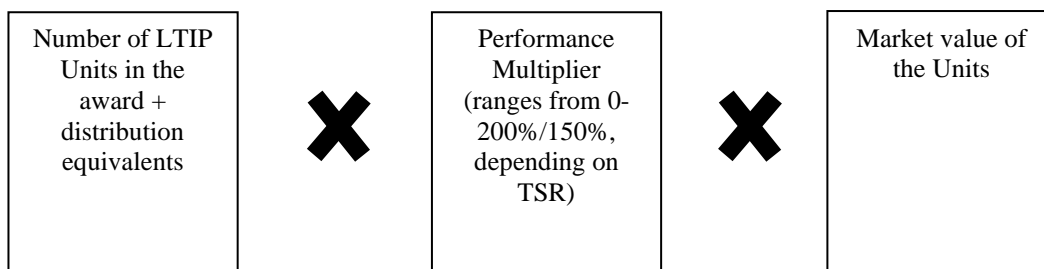
The Board may award LTIP Units to any eligible participant. The number of LTIP Units (including fractions) to be credited to each participant's account is determined by the Board in its sole discretion in accordance with the LTIP and having regard to past grants and the market value of the Units at the time of the award calculated based on the ten day volume weighted average trading price of the Units immediately preceding the award date.

LTIP Units are not considered Units or other securities of SmartCentres and do not entitle a participant to Unitholder or other securityholder rights.

Unless otherwise specified by the Board at the time of granting an award of LTIP Units as reflected in the applicable award notice, and except as otherwise provided under the LTIP, each LTIP Unit will vest on December 31 of the second year following the calendar year in which it is awarded.

LTIP Units that are vested will be settled for cash and paid out in immediately available funds within 90 days of the end of the Performance Period of the LTIP Units. The "**Performance Period**" of any series of LTIP Units awarded means the three year period commencing on the first day of the calendar year in which the LTIP Units are awarded and ending on the last day of the second calendar year following such year. For example, if a series of LTIP Units are awarded on February 1, 2019, the Performance Period for the LTIP Units will be the period commencing on January 1, 2019 and ending on December 31, 2021.

The amount that is payable to a participant at the conclusion of the Performance Period is a function of three factors: (1) a Performance Multiplier (defined below) based on the TSR (defined below) of SmartCentres relative to the Peer Group, (2) the market value of the Units on the last day of the Performance Period calculated based on the ten day volume weighted average trading price of the Units immediately preceding the award date, and (3) the per Unit amount of monthly distributions on the Units during the Performance Period. The value paid to each participant is equal to:



Whenever cash distributions are paid on the Units, additional LTIP Units will be credited to the participant's account as distribution equivalents based on the market value of the Units on the applicable distribution date calculated based on the ten day volume weighted average trading price of the Units. The distribution equivalents will vest and be settled for cash on the same schedule and in the same manner as, and in proportion to, the LTIP Units to which they relate.

The “**Performance Multiplier**” is determined with reference to the Peer Group as follows:

<i>Performance Multiplier</i>	<i>SmartCentres’ TSR Relative to the TSR for the Peer Group</i>
0%	below 40 <sup>th</sup> percentile
75%	at 40 <sup>th</sup> percentile
>75% - <100%	above 40 <sup>th</sup> percentile but below median
100%	at median
>100% - <200%/150% <sup>(1)</sup>	above median but below 90 <sup>th</sup> percentile
150%	at 90 <sup>th</sup> percentile or above

Note:

(1) Effective January 1, 2018, the upper limit of the Performance Multiplier was reduced from 200% to 150% with respect to future grants of LTIP Units.

“**TSR**” means, in respect of any entity for any Performance Period, the return that would have been realized on an investment in the units or shares of the entity over the Performance Period assuming the reinvestment of cash distributions or dividends paid during the period and shall be calculated by comparing the market value of the units or shares of the entity on the first day in the Performance Period to the market value of the units or shares of the entity on the last day in the Performance Period, with distributions and dividends assumed to be reinvested based on the market value of the units or shares of the entity in effect on each dividend payment date, all as determined by the Board, provided that where the Performance Period of three years has elapsed and SmartCentres’ TSR for the Performance Period is less than 6.1%, the Performance Multiplier shall not exceed 100%. Market value is calculated based on the ten day volume weighted average trading price of the relevant security.

In addition, unless otherwise determined by the Board prior to payment in respect of an award of LTIP Units, if at any time in the final calendar year of the Performance Period the per Unit amount of monthly cash distributions paid on the Units (as adjusted for any subdivision, consolidation, dividends paid in the form of Units or units or stock of another entity, capital reorganization, reclassification, exchange or other change with respect to the Units, or a consolidation, amalgamation merger, spin-off, sale lease or exchange of all or substantially all of the property of SmartCentres or other distribution of SmartCentres’ assets to Unitholders) is below the per Unit amount of monthly distributions paid on the Units in effect on the award date for such LTIP Units, such LTIP Units shall be forfeited.

If a participant resigns (other than in the course of retirement) or is terminated for cause, any unvested LTIP Units will terminate without payment. In the case of the retirement of a participant, any unvested LTIP Units will terminate without payment unless the Board determines at its discretion that such LTIP Units will continue to vest in accordance with the original vesting schedule and will be settled for cash at the end of their respective Performance Periods in the manner described above. If a participant’s employment or service is terminated without cause, any vested LTIP Units will be settled for cash in the manner described above and any unvested LTIP Units will terminate without payment.

If a participant becomes disabled, any unvested LTIP Units will vest on a pro-rated basis, based on the whole number of months from the start of the Performance Period for such LTIP Units to the date that the participant ceased active employment, divided by 36, and such pro-rated LTIP Units will vest in accordance with their original vesting schedule and will be settled for cash following their respective Performance Period in the manner described above. Any of the participant’s LTIP Units not vested in accordance with the foregoing will terminate without payment.

If a participant dies, for LTIP Units awarded in the year of death, a pro-rated number of such LTIP Units based on the number of whole months lapsed in the Performance Period for such LTIP Units to the date of death, divided by 12, shall vest and become payable based on the market value of such LTIP Units on the date of death. For the LTIP Units awarded in a year prior to the year of death, the Performance Period in respect of such LTIP Units will be deemed to have ended on December 31 of the year prior to the year of death, and the amount payable in respect of such LTIP Units will be equal to (i) the number of such LTIP Units, multiplied by (ii) the applicable Performance Multiplier, multiplied by (iii) the market value of the Units at the end of the applicable Performance Period.

Notwithstanding the foregoing, the Board has the discretion to vary the manner in which LTIP Units vest for any participant. The participant’s employment or service agreement will govern in the event of any conflict between the



provisions of the LTIP and the participant’s employment or service agreement relating to the treatment of LTIP Units on termination of employment. LTIP awards are subject to the executive compensation claw-back policy described in this Circular.

As of December 31, 2019, 258,307 LTIP Units have been awarded pursuant to the LTIP. Following the adoption of the EIP, SmartCentres does not intend to grant further awards under the LTIP. Mr. Goldhar has agreed to forfeit his 2018 and 2019 awards under the LTIP if he is awarded Performance Units under the EIP.

## TRUSTEE COMPENSATION

### General

The Trustees, other than the Executive Chairman and President and Chief Executive Officer, are entitled to compensation for their services rendered to SmartCentres in their capacities as Trustees. The following table summarizes the fees paid to such Trustees by SmartCentres for services during the 2019 financial year.

Item	Fee
Annual Retainer – Trustee	\$45,000
Annual Retainer – Chairman of Board	Plus \$40,000
Annual Retainer – Lead Independent Trustee	Plus \$40,000
Annual Retainer – Chair of Investment Committee	Plus \$10,000
Annual Retainer – Chair of Corporate Governance and Compensation Committee	Plus \$12,500
Annual Retainer – Chair of the Audit Committee	Plus \$15,000
Monthly Retainer – Chair of the Special Independent Committee	Plus \$6,000
Monthly Retainer – Special Independent Committee Member	Plus \$4,000
Attendance of Board or Committee Meetings (other than Audit Committee Meetings)	Plus \$2,000 per meeting
Attendance of Audit Committee Meetings	Plus \$2,500 per meeting
Attendance of Special Independent Committee Meetings (in person)	Plus \$1,500 per meeting
Attendance of Special Independent Committee Meetings (via conference call)	Plus \$1,000 per meeting
Out of Town Travel to Attend Board or Committee Meeting	Plus \$500 per meeting

The Trustees are also entitled to be reimbursed for reasonable travel and other expenses properly incurred by them in attending meetings of the Board or any committee thereof or otherwise incurred by them in connection with their services as Trustees.

### Deferred Unit Plan

SmartCentres provides its Trustees with the right to participate in the Deferred Unit Plan. All of the current Trustees who are entitled to fees have elected to be paid 100% of their Trustee fees in the form of Deferred Units in lieu of cash pursuant to the Deferred Unit Plan. This is representative of the Trustees being fully committed to SmartCentres’ long-term success. Grants of Deferred Units to Trustees vest immediately. For further information, see “Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan”.

### 2019 Compensation for Trustees

#### *Trustee Compensation Table*

The following table sets forth all compensation earned for the most recently completed financial year of SmartCentres to each of the Trustees entitled to receive fees.

Name <sup>(1)</sup>	Fees Breakdown						Allocation of Trustee Fees	
	Trustee Retainer (\$)	Committee Chair Retainer (\$)	Board and Committee Attendance Fees (\$)	Travel Fees (\$)	Unit-Based Awards (Deferred Units) (\$)	Total (\$)	Portion of Cash Fees taken in Deferred Units (%)	Total Value of Deferred Units <sup>(2)</sup> (\$)
Garry Foster	45,000	87,000 <sup>(3)</sup>	41,000 <sup>(3)</sup>	0	173,000	346,000	100	346,000
Gregory Howard	45,000	n/a	36,000	n/a	81,000	162,000	100	162,000
Jamie McVicar	45,000	12,500	95,000 <sup>(3)</sup>	1,000	153,500	307,000	100	307,000
Sharm Powell	26,250	n/a	18,000	n/a	44,250	88,500	100	88,500
Kevin Pshebniski	45,000	n/a	89,000 <sup>(3)</sup>	2,000	136,000	272,000	100	272,000
Michael Young	45,000	50,000	93,000 <sup>(3)</sup>	2,000	190,000	380,000	100	380,000

Notes:

- (1) Peter Forde, the President and Chief Executive Officer of SmartCentres, has been a Trustee since May 31, 2019, but he did not receive any compensation in that capacity while President and Chief Executive Officer. Mitchell Goldhar has been a Trustee of SmartCentres since 2005 and continued to earn Trustee retainer and meeting attendance fees until December 31, 2019. Mr. Goldhar has waived his annual retainer for acting as Chairman of the Board since his appointment as Chairman of SmartCentres on May 28, 2015. For a summary of the compensation paid by SmartCentres to Mr. Forde and Mr. Goldhar, see the section titled “Executive Compensation – 2019 Compensation for the Named Executive Officers”. Sharm Powell became a Trustee on May 31, 2019 and received pro-rated fees for the remainder of the year.
- (2) Includes the value at grant date of compensation paid in 2019 in the form of Deferred Units (including Matching Deferred Units), but does not include the value of Deferred Units received as distribution equivalents. For further information, see “Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan”.
- (3) Jamie McVicar, Kevin Pshebniski, Michael Young and Garry Foster received fees of \$48,000, in the case of Mr. McVicar, Mr. Pshebniski and Mr. Young, and \$72,000, in the case of Mr. Foster (as committee chair), as compensation for additional duties assigned to them as members of the Special Independent Committee. They also received fees of \$9,000 as additional compensation for attendance at the meetings of the Special Independent Committee.

### *Incentive Plan Awards – Deferred Units*

The following table indicates the value of Deferred Units that vested during 2019 relating to compensation earned in 2018 and the total value of vested Deferred Units that have not been paid out as of December 31, 2019 for each Trustee, other than the Executive Chairman and the President and Chief Executive Officer of SmartCentres. SmartCentres has combined information from two mandatory tables: *Incentive plan awards – Value vested or earned during the year* and *Outstanding unit-based and option-based awards*, into the table below.

Name <sup>(1)</sup>	Unit-Based Awards <sup>(2)</sup>	
	Value of Deferred Units Vested During The Year <sup>(3)</sup> (\$)	Market or Payout Value of Vested Deferred Unit Awards Not Paid Out or Distributed <sup>(4)</sup> (\$)
Garry Foster	371,000	1,925,319
Gregory Howard	158,000	620,462
Jamie McVicar	333,000	2,405,605
Sharm Powell	88,500	0
Kevin Pshebniski	274,000	3,232,489
Michael Young	400,000	1,478,608

Notes:

- (1) Peter Forde, the President and Chief Executive Officer of SmartCentres, has been a Trustee since May 31, 2019, but he did not receive any compensation in that capacity while President and Chief Executive Officer. Mitchell Goldhar has been a Trustee of SmartCentres since 2005 and continued to earn Trustee retainer and meeting attendance fees until December 31, 2019. Mr. Goldhar has waived his annual retainer for acting as Chairman of the Board since his appointment as Chairman of SmartCentres on May 28, 2015. For a summary of the compensation paid by SmartCentres to Mr. Forde and Mr. Goldhar, see the section titled “Executive Compensation – 2019 Compensation for the Named Executive Officers”.
- (2) These awards were issued pursuant to the Deferred Unit Plan and the figures include Deferred Units received as distribution equivalents under the Deferred Unit Plan. For further information, see “Executive Compensation – Equity Compensation Plan Information – Deferred Unit Plan”.
- (3) Based on the market value of the Units as at the grant date.

- (4) Represents all the Trustees' Deferred Units that have vested and not been redeemed in accordance with the Deferred Unit Plan. Values are based on the market value of the Units as at December 31, 2019.

## OTHER INFORMATION

### Indebtedness of Trustees and Officers

The table below sets out, as at the date indicated, the aggregate indebtedness of the current and former Trustees, directors and executive officers of SmartCentres and its subsidiaries, any proposed Trustee, and any associate of any one of them, to:

- (a) SmartCentres or any of its subsidiaries; or
- (b) another entity which such indebtedness is the subject of a guarantee, support agreement, letter of credit or other similar arrangement or understanding provided by SmartCentres or any of its subsidiaries.

Aggregate Indebtedness as at October 26, 2020		
Purpose	To SmartCentres or its Subsidiaries (\$)	To Another Entity (\$)
Mortgages/Loans/Notes	\$329,964,000	n/a

Other than as set out in the table below, no individual who is, or at any time during the most recently completed financial year of SmartCentres was, a Trustee, director or executive officer of SmartCentres or one of its subsidiaries, nor any proposed Trustee, nor any associate of any one of them:

- (a) is, or was at any time since the beginning of the most recently completed financial year of SmartCentres, indebted to SmartCentres or any of its subsidiaries; or
- (b) is, or was at any time since the beginning of the most recently completed financial year of SmartCentres, indebted to another entity, which such indebtedness is, or was during such time, the subject of a guarantee, support agreement, letter of credit or other similar arrangement or understanding provided by SmartCentres or any of its subsidiaries.

Name and Principal Position	Involvement of SmartCentres or Subsidiary	Commitment (\$)	Largest Amount Outstanding During the Year Ending December 31, 2019 (\$)	Amount Outstanding as at October 26, 2020 (\$)	Security For Indebtedness
Penguin Group <sup>(1)</sup>	Lender	279,235,000	138,762,000 <sup>(2)</sup>	144,203,000	First or second charges on title, assignments of rents and leases, general security agreement ("GSA"), and indemnities and guarantees
Penguin Group	Lender	2,979,000	2,979,000 <sup>(3)</sup>	2,979,000	Second charge against the property and guarantees
Penguin Group	Lender	20,000,000	10,826,000 <sup>(4)</sup>	9,319,000	Unsecured. Borrower has directed that earn-out payments to the borrower will be paid to repay amounts owing under the facility

Name and Principal Position	Involvement of SmartCentres or Subsidiary	Commitment (\$)	Largest Amount Outstanding During the Year Ending December 31, 2019 (\$)	Amount Outstanding as at October 26, 2020 (\$)	Security For Indebtedness
Penguin Group	Lender	26,227,000	14,173,000 <sup>(5)</sup>	14,516,000	First charge on title, assignments of rents and leases, GSA, and guarantees
Penguin Group	Lender	n/a	Nil	108,218,000 <sup>(6)</sup>	Unsecured. Loan assignment in conjunction with an offsetting note payable.
Penguin Group	Lender	n/a	Nil	3,460,000 <sup>(7)</sup>	Unsecured. Borrower has directed that a distribution to the borrower will be paid to repay amounts owing under the loan agreement
Penguin Group	Lender	n/a	46,214,000 <sup>(8)</sup>	47,269,000	First charge on title, assignments of rents and leases, GSA, and guarantees

Notes:

- The Penguin group of companies is owned by Mitchell Goldhar, a Trustee and Executive Chairman.
- Mortgages receivable of \$138,762,000 as at December 31, 2019 (2018 - \$134,221,000) have been provided pursuant to agreements with certain Penguin group companies in which SmartCentres will lend up to \$279,235,000 (2018 - \$282,093,000) for use in acquiring and developing 9 (2018 - 9) properties in Ontario, Québec and British Columbia. These mortgages accrue interest monthly at both variable and fixed rates and the principal amounts are due at the maturity of the mortgages at various dates between 2021 and 2024. Six of these mortgages have variable rates ranging from bankers' acceptance rates plus 1.75% to 4.20% (2018 - 1.75% to 4.20%) (such total rates not to exceed 6.75% to 7.75% per annum), and for one of the mortgages, interest is determined based on a quarterly calculation of SmartCentres' weighted average cost of capital plus 25 basis points (such rate not to exceed 6.75% per annum). Two of the mortgages have fixed rates at an interest rate of 6.35% and 7.50% (2018 - 6.35% and 7.50%). The mortgages are secured by first or second charges on properties, assignments of rents and leases, and general security agreements. In addition, other Penguin group companies have provided certain limited indemnities and guarantees on some mortgages receivable.  
During the year, \$nil (2018 - \$nil) was funded, offset by repayments of \$1,360,000 (2018 - \$nil).  
For five of these mortgages totalling \$102,828,000 as at December 31, 2019 (2018 - \$98,446,000), SmartCentres has an option to acquire 50% of the Penguin group companies' interest in five properties, which represent a 50% interest in four of the properties and a 25% interest in one property, upon substantial completion at an agreed upon formula using the net operating rents and a calculated capitalization rate. For four of the five properties the capitalization rate is subject to a minimum rate ranging from 4.60% to 5.10% and a maximum rate ranging from 6.60% to 7.10%. For one of these properties, the capitalization rate is a market capitalization rate.  
If the MG Amended Agreements are released from escrow, certain amounts under these arrangements will be amended by the Loan Agreements, see "Report of the Special Committee - Summaries of Certain MG Amended Agreements - Mezzanine Loans"
- Notes receivable at December 31, 2019 of \$2,979,000 (2018 - \$2,979,000) have been provided to certain Penguin group companies. These secured demand notes bear interest at 9% per annum. During the year, \$nil (2018 - \$nil) was funded.
- Loan receivable at December 31, 2019 of \$10,215,000 (2018 - \$10,145,000) has been provided pursuant to a loan agreement with certain Penguin group companies with a total loan facility of \$20,000,000. As at October 26, 2020, the remaining commitment amount was \$19,148,000. The loan bears interest at 10 basis points plus the lower of: (i) the Canadian prime rate plus 45 basis points, and (ii) the Canadian Dealer Offer Rate plus 145 basis points and the principal amount is due at the maturity date of the loan on November 30, 2020.
- Loan receivable at December 31, 2019 of \$14,173,000 (2018 - \$nil) has been provided pursuant to a loan agreement with certain Penguin group companies with a total loan facility of \$26,227,000. This loan accrues interest monthly at both variable and fixed rates and the principal amount is due at the maturity of the loan on June 23, 2021. The variable rate is calculated at bankers' acceptance rates plus 150 basis points and the fixed rate is an interest rate of 2.757%.
- As at October 26, 2020, loan receivable of \$108,218,000 has been assumed by SmartCentres from certain Penguin group companies. This loan is non-interest bearing and the principal amount is due at the maturity of the loan in December of 2029.

- (7) As at October 26, 2020, loan receivable of \$3,460,000 has been provided pursuant to a loan agreement with certain Penguin group companies. This loan receivable is non-interest bearing and is expected to be settled with a distribution payable in January 2021.
- (8) Loan receivable at December 31, 2019 of \$46,214,000 (2018 - \$nil) represents SmartCentres' 50% interest of the loan receivable from the PCVP. PCVP is a partnership in which each of SmartCentres and a Penguin group company owns a 50% interest. The loan receivable from PCVP was issued on April 11, 2019 in the amount of \$86,500,000. A second advance was made to PCVP in the amount of \$4,100,000 on April 15, 2019. The principal advance facility limit is \$90,600,000, which includes: i) a parkade construction facility of \$46,200,000, ii) an additional construction facility of \$40,300,000, and iii) a development facility of \$4,100,000. This loan receivable bears interest at 2.757% per annum from the advance date to June 23, 2021. This loan accrues interest monthly and is added to the principal amount outstanding on the last day of each month.

## **Interests of Management and Others in Material Transactions**

Except as set out above and in the sections of this Circular entitled "Indebtedness of Trustees and Officers", "Report of the Special Independent Committee", "Executive Compensation - 2019 Compensation for the Named Executive Officers - Penguin Services Agreement" and "Particulars of Matters to be Acted Upon - Amendments to Declaration of Trust - MG Amendments" and in the section entitled "Corporate Structure - Additional Agreements with the Penguin Group" in SmartCentres' most recent annual information form, which section is incorporated by reference in this Circular, no Trustee, director or executive officer of SmartCentres or its subsidiaries, or insider of SmartCentres, or any associate or affiliate of any of the foregoing persons, has or had any material interest in any material transaction with SmartCentres since the commencement of SmartCentres' last financial period. A copy of the annual information form may be found on SEDAR at [www.sedar.com](http://www.sedar.com).

## **Insurance for Trustees and Officers**

SmartCentres maintains trustees' and officers' liability insurance for the Trustees and officers of SmartCentres. The current trustees' and officers' liability insurance policies are in effect until July 1, 2021. The primary policy limit of \$10,000,000 is coupled with excess layers, to create a total full policy limit of \$50,000,000. There is an additional limit of \$20,000,000 of Excess Side A DIC (Difference in Conditions) coverage. Therefore, the total limit under these insurance policies is \$70,000,000. No portion of the premium is directly paid by any of the Trustees. Under the policy, there is no deductible for individual Trustees, but a deductible of \$100,000 per loss must be absorbed by SmartCentres, except for securities claims, which have a \$250,000 deductible. No claims have been made or paid under such policy to date.

## **Additional Information**

Additional information relating to SmartCentres may be found on SEDAR at [www.sedar.com](http://www.sedar.com) including additional financial information which is provided in SmartCentres' consolidated comparative financial statements and management's discussion and analysis for its most recently completed financial year. Unitholders may contact SmartCentres at any time to receive a copy of SmartCentres' consolidated comparative financial statements and management's discussion and analysis for its most recently completed financial year. Any such request should be made to the Chief Financial Officer of SmartCentres, 3200 Highway 7, Vaughan, Ontario L4K 5Z5 Facsimile: 905-326-0783 or by email to [investorrelations@smartcentres.com](mailto:investorrelations@smartcentres.com).

## **PARTICULARS OF MATTERS TO BE ACTED UPON**

### **Financial Statements**

The audited financial statements of SmartCentres for the year ended December 31, 2019 and the auditor's report thereon will be tabled before the Unitholders at the Meeting for the consideration of the Unitholders. The audited financial statements have been approved by the Audit Committee and by the Board.

### **Election of Trustees**

Pursuant to the Declaration of Trust, for so long as the MG Entities collectively beneficially own at least 5% but less than 15% of the issued and outstanding Units and Special Voting Units, in aggregate, they are entitled to appoint one Trustee to the Board and the number of Trustees on the Board will be limited to eight; for so long as the MG Entities collectively beneficially own at least 15% but less than 25% of the issued and outstanding Units and Special Voting Units, in aggregate, they are entitled to appoint a total of two Trustees to the Board and the number of Trustees on the Board will be limited to a maximum of eight; and for so long as the MG Entities are the beneficial owners of at least 25% of the issued and outstanding Units and Special Voting Units of SmartCentres, in aggregate, they are entitled to

appoint a total of three Trustees to the Board and the number of Trustees on the Board will be limited to a maximum of nine.

At the Meeting, it is proposed that Peter Forde, Jamie McVicar, Michael Young, Kevin Pshebniski, Garry Foster and Sharm Powell be elected as Trustees of SmartCentres to serve until the close of the next annual meeting of Unitholders or until a successor is elected. Mr. Goldhar has confirmed that Mitchell Goldhar and Gregory Howard will be the MG Entities' appointees to the Board. Although the MG Entities have the right to appoint three Trustees under the Declaration of Trust, they have only appointed two Trustees. Each current Trustee will cease to hold office following the closing of the Meeting, unless re-elected at the Meeting or re-appointed by the MG Entities.

### **Re-Appointment of the Auditor**

It is proposed that PricewaterhouseCoopers LLP, Chartered Professional Accountants, of Toronto, Ontario, be re-appointed to serve as the auditor of SmartCentres until the next annual meeting of Unitholders. It is further proposed that the Board be authorized to fix the auditor's remuneration. PricewaterhouseCoopers LLP has been SmartCentres' auditor since September 30, 2005.

### **Approach to Executive Compensation**

SmartCentres' executive compensation program has the objectives of attracting and retaining highly qualified executives, motivating their performance and aligning the interests of executives with the interests of Unitholders. Compensation under the program is linked to achieving both current and longer-term goals of SmartCentres and to optimizing long-term total Unitholder return through sustaining and growing SmartCentres' distributions. SmartCentres believes that its compensation programs are consistent with those objectives and are in the best interest of Unitholders. See "Compensation Discussion and Analysis" for detailed disclosure of SmartCentres' executive compensation program.

The Board has adopted a policy to hold a non-binding advisory vote on the approach to executive compensation as disclosed in the management information circular at each annual meeting. This Unitholder vote forms an important part of the ongoing process of engagement between Unitholders and the Board on executive compensation. At the meeting of Unitholders held on May 31, 2019, Unitholders holding over 96% of the votes cast at the meeting voted in favour of SmartCentres' approach to executive compensation.

At the Meeting, Unitholders will have an opportunity to vote on SmartCentres' approach to executive compensation through consideration of the following advisory resolution:

Be it resolved, on an advisory basis and not to diminish the role and responsibilities of the Board of trustees of SmartCentres Real Estate Investment Trust, that the approach to executive compensation disclosed in the management information circular of SmartCentres Real Estate Investment Trust dated November 6, 2020 is accepted.

As the vote is advisory, it will not be binding upon the Board; however, the Corporate Governance and Compensation Committee will take into account the results of the vote when considering future executive compensation arrangements. **The Board recommends that Unitholders vote in favour of the above resolution.**

### **Amendments to Declaration of Trust – MG Amendments**

As described above, pursuant to the Voting Top-Up Right the MG Entities were entitled to be issued such number of Additional Special Voting Units to entitle the MG Entities to cast 25% of the votes at a meeting of the holders of Voting Units provided certain thresholds were met. The right to receive further Additional Special Voting Units under the Voting Top-Up Right expired on July 1, 2020. See "Information Respecting SmartCentres Real Estate Investment Trust – Special Voting Units".

The proposal for the amendments to the Voting Top-Up Right and clarification of other governance rights (collectively, the "**MG Amendments**") was considered by the Special Independent Committee. See "Report of the Special Independent Committee". In doing so, the Special Independent Committee considered, among other things, the following:

- Mitchell Goldhar brings a business acumen to all components and aspects of SmartCentres, which gives SmartCentres a competitive edge.
- Leading up to and after assuming the role of Executive Chairman, Mitchell Goldhar has significantly increased his role in all aspects of SmartCentres business, including corporate strategy, leadership, development, intensification initiatives, master planning, leasing, operations and finance.
- The Special Independent Committee’s belief that Mitchell Goldhar is integral for SmartCentres to realize the full potential of its pipeline of largescale, mixed-use development opportunities, particularly given his unique strategic relationships with a number of SmartCentres key development partners (including Walmart) and his successful long-term development and operational track record.
- Mitchell Goldhar’s reputation in the industry and his leadership role in SmartCentres’ business and operations is expected to attract talented, knowledgeable and motivated development team members that could enhance SmartCentres’ business and financial performance.
- The extension of the Voting Top-Up Right maintains the status quo, and, except for the extension of the time period during which the Voting Top-Up Right applies, there would be no substantive changes to the terms of the Voting Top-Up Right.

The Special Independent Committee has determined that SmartCentres’ relationship with Mitchell Goldhar remains important and beneficial to SmartCentres and that maintaining and encouraging a positive and engaged relationship by extending the Voting Top-Up Right during his active employment with SmartCentres would be in the best interest of SmartCentres and would continue to align the interests of Mitchell Goldhar with the other Unitholders.

*Excluded Voting Unitholders*

In accordance with applicable law and the TSX rules, SmartCentres is seeking the approval of the MG Amendments by a majority of votes cast at the Meeting by public unitholders of SmartCentres (being those Unitholders that do not have an interest and are not related parties or joint actors with any person that has an interest in the MG Amendments) (the “**Public Unitholders**”). Mr. Goldhar and the MG Entities (the “**Excluded Voting Unitholders**”) are not Public Unitholders and will not be entitled to vote on the majority of minority vote to approve the MG Amendments.

To the knowledge of SmartCentres, the following table sets out the number of Units and Special Voting Units (including Additional Special Voting Units) held by the Excluded Voting Unitholders as of October 26, 2020.

Excluded Voting Unitholder	Units	Special Voting Units
SCFI Partnership	12,367,369	
SC Financial Investments Inc.	2,359,578	8,241,544
Penguin Properties Inc.	275,116	
The WB – CWT Partnership		466,746
The SmartCentres Realty – CWT Partnership		7,938,541
The Penguin – CWT Partnership		10,318,881
The Beehive – CWT Partnership		1,212,549
The 1232502 – CWT Partnership		1,212,550
SmartCentres Realty Inc.		720,432

*Proposed Amendments*

A summary of the MG Amendments is set out in the following table. A blackline copy of the applicable sections of the Declaration of Trust showing the full text of the MG Amendments is attached as Schedule “B” to this Circular.

Proposed Amendments	Section(s) in the Revised Declaration of Trust
<p><b>Voting Top-up Right</b></p> <ul style="list-style-type: none"> <li>• Extend the expiry of the Voting Top-up Right to December 31, 2025 (the “<b>Expiry Time</b>”)</li> <li>• Extend the designation of Units as Variable Voting Units until the Expiry Time</li> <li>• Increase the alternative ownership threshold from 20,000,000 voting securities to 22,800,000 voting securities</li> <li>• Provide for the cancellation of Additional Special Voting Units (i) on each record date for a Unitholder meeting to the extent the number of Units and Special Voting Units beneficially owned or controlled by Mitchell Goldhar or the MG Entities represent more than 25% of the aggregate votes eligible to be cast at such meeting and (ii) upon the expiry of the Voting Top-Up Right (absent an earlier extension or other amendment to delay or modify such cancellation)</li> </ul>	<p>1.1.25, 1.1.67, 6.1.1.1, 6.1.5</p>
<p><b>Clarification of other governance rights held by MG Entities</b></p> <p><i>Trustee Appointment Rights</i></p> <ul style="list-style-type: none"> <li>• Clarification of the MG Entities’ existing Trustee appointment rights to confirm the effective date and term of such appointments</li> <li>• Clarification of the date upon which the relevant ownership threshold test will be applied for the purpose of the MG Entities appointing Trustees, being either the record date in respect of a Unitholder meeting or the business day immediately preceding the relevant date of appointment, as applicable</li> <li>• Clarification that the MG Entities have the right to fill vacancies created by past appointees ceasing to be Trustees only if the requisite ownership threshold is met at that time</li> </ul> <p><i>Corporate Governance and Compensation Committee Rights</i></p> <ul style="list-style-type: none"> <li>• Removal of rights expiring at the conclusion of the Meeting.</li> </ul>	<p>1.1.5, 3.12.1, 3.12.2</p> <p>3.12.3</p> <p>10.4.1, 10.4.6</p>

Mitchell Goldhar’s appointment rights are permitted for the purposes of the TSX rules as they were in place prior to the introduction of Section 461.1 of the TSX Company Manual.

In order to give effect to the foregoing, certain additional non-substantive amendments to the following sections of the Declaration of Trust as shown in the blackline attached as Schedule “B” to this Circular are proposed: 3.8 (*Vacancies*), 3.13 (*Certification of Holdings by MG Entities; Cancellation of Rights*) and 10.4 (*Corporate Governance and Compensation Committee*).

A full blackline copy of the Declaration of Trust showing the MG Amendments as well as all the amendments described below under the headings “Amendments to Declaration of Trust – Investment Guidelines Amendments” and “Amendments to Declaration of Trust – General Amendments” can be accessed on SmartCentres’ website at [www.smartcentres.com](http://www.smartcentres.com)



### *Proposed Resolution*

At the Meeting, Unitholders will be asked to vote on the following resolution with or without variation:

Be it resolved as a special resolution that:

1. The amendments to the declaration of trust of SmartCentres Real Estate Investment Trust (the “**Declaration of Trust**”) substantially as described in the management information circular of SmartCentres Real Estate Investment Trust dated November 6, 2020 and substantially as reflected in the blackline of the applicable sections of the Declaration of Trust attached as Schedule “B” to the management information circular, be and are hereby authorized and approved.
2. The Declaration of Trust is hereby further amended to the extent necessary to reflect and give effect to the foregoing.
3. Any trustee or officer of SmartCentres Real Estate Investment Trust is hereby authorized, for and on behalf of SmartCentres Real Estate Investment Trust, to execute and deliver all documents and instruments and to do all other things as in the opinion of such trustee or officer may be necessary or desirable to implement this resolution and the matters authorized hereby, such determination to be conclusively evidenced by the execution and delivery of any such document or instrument, and the taking of any such action.

The above resolution must be approved by the affirmative vote of two-thirds of the votes cast by all Unitholders entitled to vote at the Meeting (including the Excluded Voting Unitholders) present or represented by proxy at the Meeting and a majority of the votes cast by all Public Unitholders entitled to vote at the Meeting present or represented by proxy at the Meeting. **The Board believes that the passing of the above resolution is in the best interests of SmartCentres and recommends that the Unitholders vote in favour of the resolution.**

As discussed elsewhere in this Circular, the MG Amended Agreements are being held pursuant to the terms of an escrow agreement and will not be effective until they are released from escrow (the “**Escrow Agreement**”). If the above resolution is approved by Unitholders at the Meeting, the MG Amended Agreements will be automatically released from escrow upon the close of business at the Meeting. If the above resolution is not approved by Unitholders at the Meeting, Mr. Goldhar has the option, which must be exercised within 2 business days of the Meeting, to release all, but not less than all, of the MG Amended Agreements from escrow, failing which all of the MG Amended Agreements will be terminated and not be released from escrow and will have no legal effect.

### **Amendments to Declaration of Trust – Investment Guidelines Amendments**

The Declaration of Trust sets out certain investment guidelines and restrictions on SmartCentres ability to make investments and provides that the operations and affairs of SmartCentres must be conducted in accordance with certain operating policies. In light of the evolution of REITs, general changes in market practice and amendments to legislation governing REITs since the formation of SmartCentres, the Trustees have reviewed SmartCentres investment guidelines and operating policies and have compared them to the investment guidelines, restrictions and operating policies of other real estate investment trusts and, with respect to SmartCentres guidelines related to indebtedness, SmartCentres’ trust indenture and the supplemental indentures thereto. The Trustees are of the view that certain amendments should be made to simplify SmartCentres’ investment guidelines and operating policies to bring them up to date and in line with evolving market practice and the terms of the trust indentures. The Board is recommending Unitholders approve a less prescriptive approach that is similar to the approach adopted by several of its more recently formed peers. SmartCentres will in all instances continue to comply with the applicable rules and regulations of the *Income Tax Act* (Canada).

A range of amendments, including an amendment to increase the maximum number of investment committee members to six (collectively, the “**Investment Guidelines Amendments**”) are proposed in this respect, each of which are summarized in greater detail below. A blackline copy of the applicable sections of the Declaration of Trust showing the full text of the Investment Guidelines Amendments is attached as Schedule “C” to this Circular.

*Proposed Amendments*

Proposed Amendments	Section(s) in the Revised Declaration of Trust
<b>Investment Guidelines</b>	
<ul style="list-style-type: none"> <li>Clarifying the type of investments SmartCentres is able to make and removing references to specific real estate sectors</li> </ul>	1.1.29, 5.1, 5.1.1, 5.1.5
<ul style="list-style-type: none"> <li>Clarification of investment restrictions related to <i>Income Tax Act</i> (Canada) rules and regulations</li> </ul>	1.1.4, 1.1.18, 5.1.2
<ul style="list-style-type: none"> <li>Increasing flexibility with respect to joint venture structuring</li> </ul>	5.1, removed previous 5.1.4
<ul style="list-style-type: none"> <li>Removing restrictions related to significant single-investment opportunities</li> </ul>	Removed previous 5.1.7
<ul style="list-style-type: none"> <li>Broadening and clarifying the scenarios in which SmartCentres may hold securities</li> </ul>	1.1.11, 1.1.16, 1.1.32, 1.1.35, 1.1.52, 5.1.3, removed previous 5.1.5
<ul style="list-style-type: none"> <li>Clarifying the types of investments SmartCentres may make and hold in respect of operating businesses</li> </ul>	5.1.4
<ul style="list-style-type: none"> <li>Broadening the scenarios under which SmartCentres may invest in mortgages, mortgage bonds and mezzanine loans</li> </ul>	5.1.6
<ul style="list-style-type: none"> <li>Clarifying and broadening the ‘basket’ clause permitting investments that do not otherwise specifically satisfy the Investment Guidelines</li> </ul>	5.1.7
<ul style="list-style-type: none"> <li>Removing redundant provisions or those which are not required, as well as guidelines which are unnecessarily prescriptive</li> </ul>	Removed previous 5.1.2, 5.1.6, 5.1.8, 5.1.10
<b>Operating Policies</b>	
<ul style="list-style-type: none"> <li>Aligning SmartCentres’ limitations with respect to indebtedness thresholds with market practice including amendments to IFRS and SmartCentres’ trust indenture and any supplemental indentures thereto</li> </ul>	1.1.9, 1.1.27, 1.1.31, 1.1.48, 1.1.68, 5.2.6
<ul style="list-style-type: none"> <li>Clarifying the scenarios in which SmartCentres may guarantee third-party indebtedness</li> </ul>	5.2.7
<b>Registered Investments</b>	
<ul style="list-style-type: none"> <li>Removal of reference to repealed legislation</li> </ul>	Removed previous 5.3
<b>Investment Committee</b>	
<ul style="list-style-type: none"> <li>Increasing the maximum number of Investment Committee members to six</li> </ul>	10.3

In order to give effect to the foregoing, certain additional non-substantive amendments to the following sections of the Declaration of Trust as shown in the blackline attached as Schedule “C” to this Circular are proposed: 1.1.13 (*Definition of “Control”*), 1.1.21 (*Definition of “Entity”*), 5.2.3.2, 5.2.4, 5.2.5, 5.2.9 (each in section 5.2 (*Operating Policies*)), 5.4 (*Application of Investment Restrictions and Operating Guidelines*) and 5.5 (*Regulatory Matters*).

A full blackline copy of the Declaration of Trust showing the Investment Guidelines Amendments as well as all the amendments described above under the heading “Amendments to Declaration of Trust – MG Amendments” and below

under the heading “Amendments to Declaration of Trust – General Amendments” can be accessed on SmartCentres’ website at [www.smartcentres.com](http://www.smartcentres.com)

#### *Proposed Resolution*

Be it resolved as a special resolution that:

1. The amendments to the declaration of trust of SmartCentres Real Estate Investment Trust (the “**Declaration of Trust**”) substantially as described in the management information circular of SmartCentres Real Estate Investment Trust dated November 6, 2020 and substantially as reflected in the blackline of the applicable sections of the Declaration of Trust attached as Schedule “C” to the management information circular, be and are hereby authorized and approved.
2. The Declaration of Trust is hereby further amended to the extent necessary to reflect and give effect to the foregoing.
3. Any trustee or officer of SmartCentres Real Estate Investment Trust is hereby authorized, for and on behalf of SmartCentres Real Estate Investment Trust, to execute and deliver all documents and instruments and to do all other things as in the opinion of such trustee or officer may be necessary or desirable to implement this resolution and the matters authorized hereby, such determination to be conclusively evidenced by the execution and delivery of any such document or instrument, and the taking of any such action.

The above resolution must be approved by the affirmative vote of two-thirds of the votes cast by all Unitholders entitled to vote at the Meeting (including the Excluded Voting Unitholders) present or represented by proxy at the Meeting. **The Board believes that the passing of the above resolution is in the best interests of SmartCentres and recommends that the Unitholders vote in favour of the resolution.**

#### **Amendments to Declaration of Trust – General Amendments**

The Trustees customarily review the terms of the Declaration of Trust on a regular basis and, when appropriate propose amendments to the Declaration of Trust, certain of which require the approval of Unitholders. A range of amendments (collectively, the “**General Amendments**”) are proposed to the Declaration of Trust, which are described in greater detail below.

Generally, the amendments are proposed in order to:

- (a) facilitate future electronic annual general meetings; and
- (b) make changes of a minor or clerical nature.

A blackline copy of the applicable sections of the Declaration of Trust showing the full text of the General Amendments is attached as Schedule “D” to this Circular. A full blackline copy of the Declaration of Trust showing the General Amendments as well as all the amendments described above under the headings “Amendments to Declaration of Trust – MG Amendments” and “Amendments to Declaration of Trust – Investment Guidelines Amendments” can be accessed on SmartCentres’ website at [www.smartcentres.com](http://www.smartcentres.com).

#### *Electronic Annual Meetings*

As a result of the ongoing uncertainty surrounding the coronavirus (COVID-19) pandemic and in order to mitigate the risks to the health and safety of its communities, Unitholders, employees and other stakeholders, the Board amended the Declaration of Trust to provide that SmartCentres’ 2020 annual general meeting of Unitholders could be held by electronic means.

The Board is of the view that it is appropriate and in the best interests of SmartCentres to further align the Declaration of Trust with changes in practices, to facilitate the use of technology and to provide the Board with the flexibility to elect to hold future annual general meetings electronically and to permit voting at meetings of Unitholders by means of telephonic, electronic or other communication facilities.

*Proposed Amendments*

A summary of the proposed amendments is set out in the following table.

<b>Proposed Amendments</b>	<b>Section(s) in the Revised Declaration of Trust</b>
<p><b>Electronic Unitholder Meetings</b></p> <ul style="list-style-type: none"> <li>Trustees can determine to hold Unitholder meetings by way of telephonic, electronic, or other communication facility that permits all participants to communicate during the meeting</li> <li>Unitholders may vote by telephonic, electronic or other communication facility that the Trust has made available for the purpose.</li> </ul>	8.1

*Changes of a Minor or Clerical Nature*

SmartCentres is proposing to make other changes to the Declaration of Trust of a minor or clerical nature, to remove inconsistencies or make minor corrections.

While the Trustees have the authority under section 13.1 of the Declaration of Trust to approve these proposed amendments without Unitholder approval, the Trustees have decided to include these amendments, together with the rest of the amendments being proposed, in the resolution submitted to the Unitholders for approval.

*Proposed Amendments*

A summary of certain proposed amendments is set out in the following table.

<b>Proposed Amendments</b>	<b>Section(s) in the Revised Declaration of Trust</b>
<p><b>Clarification of Defined Terms</b></p> <ul style="list-style-type: none"> <li>Clarify the definitions “Special Voting Unit”, “Unit” and “Unitholder” and the use of such defined terms in certain provisions to correct inconsistencies and remove redundancy where intent was to capture both Units and Special Voting Units and Unitholders and Special Unitholders</li> </ul>	1.1.56, 1.1.64, 1.1.66, 4.3, Article 8, 12.1, 13.1.3, 13.1.5, 13.5, 15.5 and Article 16
<p><b>Resignation, Removal and Death of Trustees</b></p> <ul style="list-style-type: none"> <li>Clarify that Trustees appointed by the MG Entities pursuant to Section 3.12 may only be removed with the written consent of the MG Entities</li> </ul>	3.7
<p><b>Additional Special Voting Units</b></p> <ul style="list-style-type: none"> <li>Clarify the number of votes that holders of Additional Special Voting Units are entitled to</li> </ul>	6.1.3
<p><b>2021 Unitholder Proposals</b></p> <ul style="list-style-type: none"> <li>Adjusting the date by which unitholder proposals for the 2021 annual Unitholder meeting must be received, to account for the later date of the 2020 annual meeting</li> </ul>	8.3.8.1
<p><b>Matters on Which Unitholders Shall Vote</b></p> <ul style="list-style-type: none"> <li>Clarify that Unitholder approval is not required for the appointment of Trustees between meetings where permitted by Section 3.1 or the appointment by the MG Entities pursuant to Section 3.12</li> </ul>	8.7

Proposed Amendments	Section(s) in the Revised Declaration of Trust
<p><b>Amendments</b></p> <ul style="list-style-type: none"> <li>Clarity that the Trustees cannot make amendments pursuant to Section 13.1.2 if they would be prejudicial to Unitholders or Special Unitholders</li> </ul>	13.1.2

In order to give effect to the foregoing, certain additional non-substantive amendments to the following sections of the Declaration of Trust as shown in the blackline attached as Schedule “D” to this Circular are proposed: 1.1.70 (*Definition of “including”*), 3.5 (*Election of Trustees*), 3.6 (*Nomination of Trustees*) 11.4 (*Income Tax Matters*), 13.2 (*Amendments by Unitholders*), 13.3 (*Two-Thirds Unitholder Vote*).

*Proposed Resolution*

At the Meeting, Unitholders will be asked to vote on the following resolution with or without variation:

Be it resolved that:

- The amendments to the declaration of trust of SmartCentres Real Estate Investment Trust (the “**Declaration of Trust**”) substantially as described in the management information circular of SmartCentres Real Estate Investment Trust dated November 6, 2020 and substantially as reflected in the blackline of the applicable sections of the Declaration of Trust attached as Schedule “D” to the management information circular, be and are hereby authorized and approved.
- The Declaration of Trust is hereby further amended to the extent necessary to reflect and give effect to the foregoing.
- Any trustee or officer of SmartCentres Real Estate Investment Trust is hereby authorized, for and on behalf of SmartCentres Real Estate Investment Trust, to execute and deliver all documents and instruments and to do all other things as in the opinion of such trustee or officer may be necessary or desirable to implement this resolution and the matters authorized hereby, such determination to be conclusively evidenced by the execution and delivery of any such document or instrument, and the taking of any such action.

The above resolution must be approved by a majority of the votes cast by all Unitholders (including the Excluded Voting Unitholders) entitled to vote at the Meeting present or represented by proxy at the Meeting. **The Board believes that the passing of the above resolution is in the best interests of SmartCentres and recommends that the Unitholders vote in favour of the resolution.**

**EIP**

*Description of Equity Incentive Plan*

On November 5, 2020, the Trustees approved the adoption of the EIP. The purpose of the EIP is to provide officers and key employees of SmartCentres and its related entities with the opportunity to receive a special award of “Performance Units” to allow them to participate in the long-term success of SmartCentres and to promote a greater alignment of their interests with the interests of Unitholders. A copy of the EIP is attached as Schedule “E” to this Circular.

The EIP will be administered by the Board, which may delegate all or any of its powers to the Corporate Governance and Compensation Committee.

Full-time employees or dependent contractors of SmartCentres and/or its related entities are eligible to participate in the EIP.

The number of Performance Units (including fractional Performance Units) granted on an award date under the EIP will be determined by the Board in its sole discretion.

Performance Units are subject to achievement of applicable performance measures during the applicable performance period which will be set out in the participant's award notice. Performance measures may include Unit price thresholds or other measures designed to link the participant's compensation to SmartCentres' long-term success.

Performance Units are not considered Units and do not entitle a participant to any Unitholder rights. One Performance Unit is economically equivalent to one Unit and represents the right to receive a Unit issued from treasury or a cash payment based on the market value of a Unit (at the participant's election). As Performance Units are full value awards, there is no exercise or purchase price applicable to the Performance Units and SmartCentres will not provide financial assistance to participants under the EIP.

The performance measures for the Performance Units that are intended to be granted in January 2021 in respect of the January 1, 2021 through December 31, 2027 performance period are Unit price thresholds ranging from \$26.00 to \$34.00 (in increments of \$2.00) and will be achieved on the date upon which the daily volume weighted average price of all Units traded on the TSX is equal to or exceeds the applicable Unit price threshold for 20 consecutive trading days. Unless otherwise specified in the award notice, the vesting period for each Performance Unit for which the applicable performance measure has been achieved will commence on such date and end on the earlier of the third anniversary of the date the applicable performance measure is achieved and the end of the performance period.

The number of Performance Units which will vest and become redeemable is a function of the achievement of applicable performance measures over the applicable performance period. Vested Performance Units are redeemable by the participant (or his or her beneficiary) in whole or in part until the eighth anniversary of the award date. To redeem vested Performance Units, the participant must file a written notice of redemption. The participant will receive, within five business days after the redemption date, a whole number of Units equal to the whole number of vested Performance Units being redeemed, subject to the participant satisfying applicable withholding taxes. Participants have no right to receive any fractional Units or any cash payment in lieu of fractional Units. The Performance Units will be cancelled upon the issuance of Units upon redemption. Alternatively, a participant may elect to receive cash in respect of some or all of the vested Performance Units to be redeemed (the "**Cash Units**"), in which event SmartCentres will, at its election, either (i) pay to the participant, within five business days of redemption, an amount equal to the market value of the Cash Units, less applicable withholding taxes in full satisfaction of the surrender by the participant of his or her rights to acquire Units or (ii) issue such number of Units equal to the number of Cash Units and arrange to sell such Units on behalf of the participant as soon as practical, and pay to the participant the proceeds of such sale, less any applicable withholding taxes. Market value is defined in the EIP as the volume weighted average trading price of the Units on the TSX for the 10 trading days immediately preceding the applicable date.

Whenever cash distributions are paid on Units, additional Performance Units will be credited to the participant's Performance Unit account as distribution equivalents based on the market value of the Units on the applicable distribution date. Such additional Performance Units granted as distribution equivalents vest in the same manner as, and in proportion to, the underlying Performance Units to which they relate.

If a participant resigns (other than in the course of retirement) or is terminated for cause, any unvested Performance Units will terminate without payment. In the case of the retirement of a participant, any unvested Performance Units for which the applicable performance measures have not been achieved will terminate without payment and any Performance Units for which the applicable performance measures have been achieved will continue to vest in accordance with the original vesting schedule and will be redeemable until the eighth anniversary of the award date in the manner described above. If a participant's employment or service is terminated without cause, any unvested Performance Units for which the applicable performance measures have not been achieved will terminate without payment and any Performance Units for which the applicable performance measures have been achieved will vest on the participant's separation date on a pro-rated basis based on the number of months from the start of the vesting period to the participant's separation date, divided by the number of whole months in the vesting period and will be redeemable until the eighth anniversary of the award date in the manner described above.

If a participant dies, any unvested Performance Units for which the applicable performance measures have been achieved will immediately vest and will be redeemable until the eighth anniversary of the award date in the manner described above. If a participant becomes disabled, any unvested Performance Units for which the applicable performance measures have been achieved will continue to vest in accordance with the original vesting schedule and

will be redeemable until the eighth anniversary of the award date in the manner described above. Any of the participant's Performance Units not vested in accordance with the foregoing will terminate without payment.

In the event of a change of control of SmartCentres, any unvested Performance Units for which the applicable performance measures have been achieved will immediately vest in full on the change of control. If, pursuant to the change of control, the consideration received by Unitholders consists only of cash or other property that is not publicly traded or intended to be publicly traded, then all such vested Performance Units will be redeemed as of the date immediately prior to the date upon which such transaction is completed. Change of control is defined in the EIP as: (i) any acquisition by any person or group (other than any MG Entities) of beneficial ownership of, or control over, voting securities or convertible securities of SmartCentres, as a result of which that acquiror, together with its affiliates or any other person acting jointly or in concert with the acquiror, beneficially own (A) not less than 50% of the voting securities of SmartCentres or (B) securities which would entitle the holders thereof to cast not less than 50% of the votes which may be cast to elect trustees; (ii) a board majority change whereby incumbent trustees no longer constitute a majority of the board; or (iii) a combination, amalgamation, merger or arrangement of SmartCentres or any of its material subsidiaries with or into any other person, any termination or plan for the liquidation of SmartCentres, or any sale, transfer or disposition of all or substantially all of the assets of SmartCentres, in each case if the MG Entities voted against or, if not the subject of a Unitholder vote, did not provide written consent to, such reorganization, or (iv) any determination by a majority of the board that a change of control has occurred or is about to occur.

In the event of any subdivision, consolidation, dividends paid in Units or other stock capital reorganization, reclassification, exchange or other change with respect to the Units, or a consolidation, amalgamation, merger, spin-off, sale, lease, or exchange of all or substantially all of the property of SmartCentres, the account of each participant and the Performance Units outstanding under the EIP will be adjusted in such manner as determined by the Board to preserve proportionately, the interest of the participants.

The participant's employment or service agreement will govern in the event of any conflict between the provisions of the EIP and the participant's employment or service agreement relating to the treatment of Performance Units, including on termination of employment.

Performance Units are subject to the executive compensation claw-back policy described in this Circular.

Performance Units are non-transferrable and non-assignable by the participant.

Unitholder approval is required for any amendment to the EIP that (i) increases the number of Units reserved for issuance under the EIP, (ii) extends eligibility to participate in the EIP to persons not currently eligible to participate, (iii) permits entitlements under the EIP to be transferred other than for normal estate settlement purposes, (iv) permits awards other than those specifically contemplated in the EIP to be made under the EIP, (v) increases or removes the 10% limits on Units reserved for issuance to or issued to insiders under the EIP, or (vi) deletes or removes the range of amendments which require approval of Unitholders. Subject to the foregoing matters, the Board may amend, suspend or terminate the EIP or any provision of the EIP, provided that the consent of a participant will be required where such amendment, suspension or termination materially adversely affects the participant's rights with respect to outstanding awards. Without limiting the general amendment powers described in the previous sentence, Unitholder approval is not required for amendments of the EIP which (i) make minor or technical modification to any of its provisions, including amendments of a 'housekeeping' nature, (ii) correct any ambiguity, defect, error or omission in its provisions, (iii) amend the vesting provisions of the Performance Units or (iv) make any other amendment that does not require Unitholder approval under applicable laws or the rules of the TSX.

As of October 26, 2020, SmartCentres had 144,617,832 Units outstanding (not including the 27,593,847 Units issuable upon the exercise or conversion of the Exchangeable Securities outstanding). The aggregate number of Units authorized for issuance upon redemption of all Performance Units granted under the EIP cannot exceed 3,000,000, or approximately 2.1% of the outstanding Units of SmartCentres as at October 26, 2020, or any greater number of Units as may be determined by the Board and approved by the Unitholders and, if required, by any relevant stock exchange or other regulatory authority.

Notwithstanding anything in the EIP, the aggregate number of Units (i) issued to insiders of SmartCentres, within any one year period and (ii) issuable to insiders at any time, under the EIP or when combined with all of SmartCentres' other security-based compensation arrangements, shall not exceed 10% of SmartCentres' total issued and outstanding Units, respectively. Insiders is as defined under the TSX Company Manual.

### *Proposed Resolution*

1. The new equity incentive plan of SmartCentres Real Estate Investment Trust, which provides for a maximum of 3,000,000 Units reserved for issuance thereunder, substantially as described in the management information circular of SmartCentres Real Estate Investment Trust dated November 6, 2020, be and is hereby approved, subject to receipt of final approval of the Toronto Stock Exchange.
2. Any trustee or officer of SmartCentres Real Estate Investment Trust is hereby authorized, for and on behalf of SmartCentres Real Estate Investment Trust, to execute and deliver all documents and instruments and to do all other things as in the opinion of such trustee or officer may be necessary or desirable to implement this resolution and the matters authorized hereby, such determination to be conclusively evidenced by the execution and delivery of any such document or instrument, and the taking of any such action.

The above resolution must be approved by a majority of the votes cast by all Unitholders (including the Excluded Voting Unitholders) entitled to vote at the Meeting present or represented by proxy at the Meeting. **The Board believes that the passing of the above resolution is in the best interests of SmartCentres and recommends that the Unitholders vote in favour of the resolution.**

### **Interest of Certain Persons in Matters to be Acted Upon**

Other than the election of Trustees of SmartCentres, the MG Amendments or as otherwise set out in this Circular, no Trustee, officer or insider of SmartCentres, or any associate or affiliate of any of the foregoing persons, 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 Business**

Management of SmartCentres is not aware of any matter to come before the Meeting other than the matters referred to in the notice of meeting. However, if any other matter properly comes before the Meeting, the accompanying forms of proxy confer discretionary authority to vote with respect to amendments or variations to matters identified in the notice of meeting and with respect to other matters that properly may come before the Meeting in the best judgement of the persons voting the proxy.

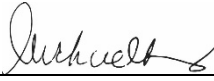


**APPROVAL OF TRUSTEES**

The contents of the Circular have been approved by the Board.

**DATED** at Vaughan, Ontario this 6<sup>th</sup> day of November, 2020.

**BY ORDER OF THE BOARD OF TRUSTEES OF  
SMARTCENTRES REAL ESTATE INVESTMENT TRUST**

By:   
\_\_\_\_\_  
Michael Young  
Lead Independent Trustee

**SCHEDULE “A”  
MANDATE OF THE BOARD**

**1. Adoption**

The Board of Trustees (the “**Board**”) of SmartCentres Real Estate Investment Trust (the “**Trust**”) adopted this Mandate by resolution dated March 8, 2004.

**2. Policy Statement**

The Board of the Trust has, subject to all of the provisions of the Declaration of Trust of the Trust, as amended from time to time (the “**Declaration of Trust**”), the responsibility to oversee the conduct of the business of the Trust and to oversee the activities of management who are responsible for the day-to-day conduct of the business of the Trust.

**3. Composition and Operation**

The Board operates by delegating certain of its authorities to management and to Committees of the Board and by reserving certain powers to itself all as prescribed by the Declaration of Trust. The Board retains the responsibility of managing its own affairs including selecting its Chair, nominating candidates for election to the Board, constituting committees of the full Board and determining compensation for the trustees. Subject to the Declaration of Trust and all amendments thereto, the Board may constitute, seek the advice of and delegate powers, duties and responsibilities to committees of the Board.

**4. Responsibilities**

The Board’s fundamental objectives are to preserve and enhance long-term unitholder value, to ensure the Trust meets its obligations on an ongoing basis and that the Trust operates in a reliable manner. In performing its functions, the Board should also consider the legitimate interests its other stakeholders such as employees, customers and communities may have in the Trust. In broad terms, the stewardship of the Trust involves the Board in strategic planning, financial reporting, risk management and mitigation, senior management determination, communication planning and internal control integrity.

**5. Specific Duties**

Subject only to the express limitations contained in the Declaration of Trust including, without limitation sections 5.1 and 5.2 of the Declaration of Trust, and in addition to any powers and authorities conferred by the Declaration of Trust or which the trustees may have by virtue of any present or future statute or rule or law, the Board shall have and may exercise the following powers and authorities (with all defined terms having the meaning prescribed by the Declaration of Trust):

- (a) To retain, invest and reinvest the capital or other funds of the Trust in Real Property of any kind, and to possess and exercise all the rights, powers and privileges appertaining to the ownership of the property of the Trust and to increase the capital of the Trust at any time by the issuance of additional Units for such consideration as they deem appropriate;
- (b) For such consideration as they deem proper, to invest in, purchase or otherwise acquire for cash or other property or through the issuance of Units or through the issuance of notes, debentures, bonds or other obligations or securities of the Trust and hold for investment the entire or any participating interest in mortgages. In connection with any such investment, purchase or acquisition, the Board shall have the power to acquire a share of rents, lease payments or other gross income from or a share of the profits from or a share in the equity or ownership of Real Property;
- (c) To sell, rent, lease, hire, exchange, release, partition, assign, mortgage, pledge, hypothecate, grant security interests in, encumber, negotiate, convey, transfer or otherwise dispose of any or all of the property of the Trust by deeds, trust deeds, assignments, bills of sale, transfers, leases, mortgages,

financing statements, security agreements and other instruments for any of such purposes executed and delivered for and on behalf of the Trust or Trustees by one or more of the Trustees or by a duly authorized officer, employee, agent or any nominee of the Trust;

- (d) To enter into leases, contracts, obligations and other agreements for a term extending beyond the term of office of the Trustees and beyond the possible termination of the Trust or for a lesser term;
- (e) To borrow money from or incur indebtedness to any person; to guarantee, indemnify or act as surety with respect to payment or performance of obligations of third parties; to enter into other obligations on behalf of the Trust; and to assign, convey, transfer, mortgage, subordinate, pledge, grant security interests in, or encumber, the property of the Trust to secure any of the foregoing;
- (f) To lend money, whether secured or unsecured;
- (g) To incur and pay out of the property of the Trust any charges or expenses and disburse any funds of the Trust, which charges, expenses or disbursements are, in the opinion of the Board, necessary or incidental to or desirable for the carrying out of any of the purposes of the Trust or conducting the affairs of the Trust including, without limitation, taxes or other governmental levies, charges and assessments of whatever kind or nature, imposed upon or against the Board in connection with the Trust or the property of the Trust or upon or against the property of the Trust or any part thereof and for any of the purposes herein;
- (h) To deposit funds of the Trust in banks, trust companies and other depositories, whether or not such deposits will earn interest, the same to be subject to withdrawal on such terms and in such manner and by such person or persons (including any one or more Trustees, officers, agents or representatives) as the Board may determine;
- (i) To possess and exercise all the rights, powers and privileges appertaining to the ownership of all or any mortgages or securities, issued or created by, or interest in, any person, forming part of the assets of the Trust, to the same extent that an individual might and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or action generally or for any particular meeting or action and may include the exercise of discretionary power;
- (j) To elect, appoint, engage or employ officers for the Trust (including a Chair, a President, one or more Vice Presidents and a Secretary and other officers as the Board may determine), who may be removed or discharged at the discretion of the Board, such officers to have such powers and duties, and to serve such terms as may be prescribed by the Board; to engage or employ any persons as agents, representatives, employees or independent contractors (including, without limitation, real estate advisors, investment advisors, registrars, underwriters, accountants, lawyers, real estate agents, property managers, appraisers, brokers, architects, engineers, construction managers, general contractors or otherwise) in one or more capacities, and to pay compensation from the Trust for services in as many capacities as such persons may be so engaged or employed; and, except as prohibited by law, to delegate any of the powers and duties of the Board to any one or more Trustees, agents, representatives, officers, employees, independent contractors or other persons;
- (k) To collect, sue for and receive sums of money coming due to the Trust, and to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, proceedings, disputes, claims, demands or other litigation relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefore whether or not any suit is commenced or claim accrued or asserted and, in advance of any controversy, to enter into agreements regarding the arbitration or settlement thereof,
- (l) To renew, modify, release, compromise, extend, consolidate or cancel, in whole or in part, any obligation to or of the Trust;

- (m) To purchase and pay for, out of the assets of the Trust, insurance contracts and policies insuring the assets of the Trust against any and all risks and insuring the Trust and/or any or all of the Trustees, the Unitholders or officers of the Trust against any and all claims and liabilities of any nature asserted by any person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustees, the Unitholders or the officers or otherwise;
- (n) To cause title to any of the assets of the Trust to be drawn up in the name of the Trustees, and/or, to the extent permitted by applicable law, in the name of the Trust or one or more of the Trustees or any other person, on such terms, in such manner with such powers in such person as the Board may determine and with or without disclosure that the Trust or Trustees are interested therein provided, however, that should title to any of the assets of the Trust be held by and/or in the name of any person or persons other than the Trust or Trustees as aforesaid, the Board shall require such person or persons to execute a declaration of trust acknowledging that title to such assets is held in trust for the benefit of the Trust;
- (o) To determine conclusively the allocation to capital, income or other appropriate accounts of all receipts, expenses, disbursements and property of the Trust;
- (p) To prepare, sign and file or cause to be prepared, signed and filed any prospectus, information circular, offering memorandum or similar document, and any amendment thereto, relating to or resulting from an offering of the Units or other securities issued or held by the Trust and to pay the cost thereof and related thereto and any fees related thereto out of the property of the Trust whether or not such offering is or was of direct benefit to the Trust or those persons (if any) who were Unitholders immediately prior to such offering;
- (q) To make or cause to be made application for the listing on any stock exchange of any Units or other securities of the Trust, and to do all things which in the opinion of the Board may be necessary or desirable to effect or maintain such listing or listings;
- (r) To determine conclusively the value of any or all of the property of the Trust from time to time and, in determining such value, to consider such information and advice as the Board, in their sole judgement, may deem material and reliable;
- (s) To do all such acts and things and to exercise such powers which are delegated to the Board by any person who co-owns Real Property with the Trust; and
- (t) To do all such other acts and things as are incidental to the foregoing and to exercise all powers which are necessary or useful to carry on the affairs of the Trust, to promote any of the purposes for which the Trust is formed and to carry out the provisions of the Declaration of Trust.

## **6. Independence, Orientation and Evaluation**

The Board shall have the responsibility to:

- (a) implement appropriate structures and procedures to permit the Board to function independently of management;
- (b) implement a system which enables an individual trustee to engage an outside advisor at the expense of the Trust in appropriate circumstances;
- (c) provide an orientation and education program for newly appointed members of the Board;
- (d) implement a process for assessing the effectiveness of the Board as a whole, the committees of the Board and the contribution of individual trustees;

- (e) examine the size of the Board and the impact of the number of trustees upon the effectiveness of the Board; and
- (f) review the adequacy and form of the compensation provided to the trustees to ensure it adequately reflects the responsibilities and risks involved in being an effective trustee.

## **7. Strategy Determination**

The Board shall:

- (a) adopt and annually review a strategic planning process and approve the strategic plan of the Trust, which takes into account, among other things, the opportunities and risks of the business; and
- (b) annually review operating and financial performance results relative to established strategy, budgets and objectives.

## **8. Managing Risk**

The Board has the responsibility to understand the principal risks of the business in which the Trust is engaged, to achieve a proper balance between risks incurred and the potential return to unitholders, and to confirm that there are systems in place which effectively monitor and manage those risks with a view to the long-term viability of the Trust.

## **9. Appointment, Training and Monitoring of Senior Management**

The Board shall:

- (a) appoint the Chief Executive officer (“CEO”) and senior officers, develop position descriptions for such persons, approve (upon recommendations from the Compensation Committee) their compensation, and monitor the CEO’s performance against a set of mutually agreed corporate objectives directed at maximizing unitholder value;
- (b) ensure that a process is established that adequately provides for succession planning including the appointment, training and monitoring of senior management; and
- (c) establish limits of authority delegated to management.

## **10. Reporting and Communication**

The Board has the responsibility to:

- (a) verify that the Trust has in place policies and programs to enable the Trust to communicate effectively with its unitholders, other stakeholders and the public generally;
- (b) verify the integrity of the Trust’s internal controls and management information systems;
- (c) verify that the financial performance of the Trust is adequately reported to unitholders, other security holders and regulators on a timely and regular basis;
- (d) verify that the financial results are reported fairly and in accordance with generally accepted accounting standards;
- (e) verify the timely reporting of any other developments that have a significant and material impact on the value of the Trust; and
- (f) report annually to unitholders on its stewardship of the affairs of the Trust for the preceding year.

**11. Monitoring and Acting**

The Board has the responsibility to:

- (a) review and approve the Trust's financial statements and oversee the Trust's compliance with applicable audit, accounting and reporting requirements;
- (b) verify that the Trust operates at all times within applicable laws and regulations to the highest ethical and moral standards;
- (c) approve and monitor compliance with significant policies and procedures by which the Trust is operated;
- (d) monitor the Trust's progress towards its goals and objectives and to revise and alter its direction through management in response to changing circumstances;
- (e) take such action as it determines appropriate when performance falls short of its goals and objectives or when other special circumstances warrant; and
- (f) verify that the Trust has implemented adequate internal control and information systems which ensure the effective discharge of its responsibilities.

**12. Committees**

- (a) There shall be three committees of the Board; the investment committee, the audit committee and the compensation and corporate governance committee. The Board may establish any other committee as it may deem appropriate from time to time.
- (b) The Board shall establish a mandate for each of the committees of the Board required by section 12(a) above.

**13. Other Activities**

- (a) The Board shall prepare and distribute the schedule of Board meetings for each upcoming year.
- (b) The Board may perform any other activities consistent with this mandate, the Declaration of the Trust and all amendments thereto and any other governing laws as the Board determines necessary or appropriate.

**SCHEDULE "B"**  
**DECLARATION OF TRUST AMENDMENTS – MG AMENDMENTS**

(See Attached.)

**~~THIRTEENTH~~FOURTEENTH AMENDED AND RESTATED**

**DECLARATION OF TRUST**

**FOR**

**SMARTCENTRES REAL ESTATE INVESTMENT TRUST**



## SMARTCENTRES REAL ESTATE INVESTMENT TRUST

### ~~THIRTEENTH~~FOURTEENTH AMENDED AND RESTATED DECLARATION OF TRUST

THIS DECLARATION OF TRUST made the 4<sup>th</sup> day of December, 2001, as amended and restated as of the 24<sup>th</sup> day of October, 2002, as further amended and restated as of the 31<sup>st</sup> day of October, 2003, as further amended and restated as of the 16<sup>th</sup> day of January, 2004, as further amended and restated as of the 7<sup>th</sup> day of July, 2005, as further amended and restated as of the 16<sup>th</sup> day of May 2006, as further amended and restated as of the 14<sup>th</sup> day of September, 2009, as further amended and restated as of the 10<sup>th</sup> day of May, 2012, as further amended and restated as of the 29<sup>th</sup> day of December, 2014, as further amended and restated as of the 28<sup>th</sup> day of May, 2015, as further amended and restated as of the 3<sup>rd</sup> day of July, 2015, as further amended and restated as of the 11<sup>th</sup> day of May, 2017, as further amended and restated as of the 20<sup>th</sup> day of October, 2017 ~~and~~, as further amended and restated as of the 29<sup>th</sup> day of June, 2020 and as further amended and restated as of the 9<sup>th</sup> day of December, 2020.

#### RECITAL

WHEREAS the Trust was established for the principal purpose of providing persons who may become the holders of Units (“**Unitholders**”) of the Trust with an opportunity to invest in a trust owning a diversified portfolio of income-producing real property investments;

AND WHEREAS on December 4, 2001, ten initial Units of the Trust were issued to Laxus Holdings Inc. (the “**Settlor**”);

AND WHEREAS, the Trust first amended this Declaration of Trust on October 24, 2002 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on September 24, 2002;

AND WHEREAS, the Trust again amended this Declaration of Trust on October 31, 2003 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on September 23, 2003;

AND WHEREAS, the Trust again amended this Declaration of Trust on January 16, 2004 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on January 16, 2004;

AND WHEREAS, the Trust again amended this Declaration of Trust on July 7, 2005 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on July 7, 2005;

AND WHEREAS, the Trust again amended this Declaration of Trust on May 16, 2006 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 16, 2006;

AND WHEREAS the Trust again amended this Declaration of Trust on September 14, 2009 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 7, 2009;

AND WHEREAS the Trust again amended this Declaration of Trust on May 10, 2012 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 10, 2012;

AND WHEREAS the Trust again amended this Declaration of Trust on December 29, 2014 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on May 28, 2015 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 26, 2015;

AND WHEREAS the Trust again amended this Declaration of Trust on July 3, 2015 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on May 11, 2017 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 11, 2017;

AND WHEREAS the Trust again amended this Declaration of Trust on October 20, 2017 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on June 29, 2020 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on December 9, 2020 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on December 9, 2020;

AND WHEREAS, for greater certainty, the restatement of this Declaration of Trust shall not be deemed to constitute a termination of the Trust or a resettlement of this Declaration of Trust created hereby;

## DECLARATION

NOW THEREFORE, the undersigned, being all of the Trustees, hereby confirm that they agree to hold in trust as trustees any and all property, real, personal or otherwise, tangible or intangible, which has been at the date hereof or is hereafter transferred, conveyed or paid to them as such trustees, and all rents, income, profits and gains therefrom for the benefit of the Unitholders hereunder in accordance with and subject to the express provisions of this Declaration of Trust, to wit:

### ARTICLE 1 DEFINITIONS

#### 1.1 Definitions and Interpretation

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

- 1.1.1 “**Adjusted Unitholders’ Equity**” of the Trust, at any time, means the aggregate of the Carrying Value of Equity plus (i) the aggregate of the Carrying Values of the (a) earnout options, (b) deferred unit plan, (c) limited partnership units and (d) conversion feature of convertible debentures, to extent such items are classified as liabilities; and (ii) current and deferred income tax provision, if any; less the difference between (a) the Carrying Value of investment properties included on the consolidated balance sheet and (b) the Cost Value of investment properties;
- 1.1.2 “**Affiliate**” has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus and Registration Requirements*;
- 1.1.3 “**Aggregate Assets**” of the Trust, at any time, means the aggregate of (i) the total Carrying Value of the assets of the Trust plus (ii) accumulated amortization on property, plant and equipment; less (iii) the Carrying Value of goodwill; less (iv) the excess/shortfall between (a) the Carrying Value of investment properties presented on the consolidated balance sheet and (b) the Cost Value of investment properties presented on the consolidated balance sheet;
- 1.1.4 “**Annuitant**” means the annuitant of a registered retirement savings plan or a registered retirement income fund or a deferred profit sharing plan, all as defined in the *Income Tax Act* (Canada), or any other plan of which a Unitholder acts as trustee or carrier;
- 1.1.5 “**Appointment Test Date**” means, in the case of an appointment by the MG Entities of a trustee that is, (i) pursuant to section 3.12.1.1, to be effective immediately following the conclusion of a meeting of Unitholders, the record date of such meeting, or (ii) pursuant to section 3.12.1.2, to be effective at any other date specified in writing by the MG Entities Representative, the Business Day immediately prior to the date so specified;
- 1.1.6 ~~1.1.5~~ “**Associate**” means, where used to indicate a relationship between an individual and a corporation, an individual who beneficially owns, directly or indirectly, voting securities carrying

- 1.1.22 ~~1.1.16~~ “**Equity**” means, the residual between Total Assets and Total Liabilities determined in accordance with GAAP;
- 1.1.23 ~~1.1.17~~ “**Equity Value**” means the fair market value of the Units;
- 1.1.24 ~~1.1.18~~ “**Exchangeable Securities**” means any securities of any trust, limited partnership or corporation other than the Trust that are convertible or exchangeable directly for Units without the payment of additional consideration therefore;
- 1.1.25 “**Expiry Time**” means December 31, 2025;
- 1.1.26 ~~1.1.19~~ “**Fair Market Value**” means, at any time, at the option of the Trustees of the Trust either: (i) the fair market value of the assets of the Trust at such time, as determined by the Trustees of the Trust; or (ii) the fair market value of the Trust calculated as the aggregate outstanding indebtedness of the Trust at such time plus the value obtained when the aggregate number of Units and Exchangeable Securities outstanding at such time is multiplied by the weighted average trading price of the Units on the Toronto Stock Exchange, or such other exchange upon which the Units of the Trust may be listed for trading, for the ten trading days immediately preceding such time;
- 1.1.27 ~~1.1.20~~ “**GAAP**” means, as at any date of determination, generally accepted accounting principles in effect in Canada as of the date thereof that are applicable to the Trust;
- 1.1.28 ~~1.1.21~~ “**Immediate Family Member**”, when used to indicate a relationship with an individual, means a parent, child or sibling of such individual;
- 1.1.29 Reserved;
- 1.1.30 ~~1.1.22~~ “**Initial Contribution**” means the amount of \$10.00 transferred and paid by the Settlor to the Trustees on December 4, 2001 for the purpose of establishing the Trust;
- 1.1.31 Reserved;
- 1.1.32 Reserved;
- 1.1.33 ~~1.1.23~~ “**MG Entities Representative**” means (i) while Mitchell Goldhar remains alive, Mitchell Goldhar or such other individual as may from time to time be designated in writing by Mitchell Goldhar and (ii) if Mitchell Goldhar is not alive, such individual as may from time to time be designated in writing by the MG Entities;
- 1.1.34 ~~1.1.24~~ “**MG Entity**” means (i) Mitchell Goldhar, (ii) any heir(s), executor(s), administrator(s) or legal representative(s) of Mitchell Goldhar; (iii) any individual who is the child, spouse, common law spouse, father, mother, brother, sister, niece or nephew of Mitchell Goldhar, or is married to any such individual; (iv) any trust(s) in respect of which all of the beneficiaries shall be solely one or more of those Persons referred to in clause (iii) above; (v) any combination of Persons referred to in clauses (i), (ii), (iii) or (iv) above; and (vi) any Person who is Controlled by any Person referred to in clauses (i), (ii), (iii) or (iv) above or any combination thereof;
- 1.1.35 Reserved;
- 1.1.36 ~~1.1.25~~ “**Mortgage**” means, under applicable law, any mortgage, charge, bond, debenture, note or other evidence of indebtedness, in each case, which is directly or indirectly secured by Real Property;
- 1.1.37 ~~1.1.26~~ “**Net Realized Capital Gains of the Trust**” for any year means the amount, if any, by which the amount of the capital gains of the Trust for the year exceeds the aggregate of (i) the amount of any capital losses of the Trust for the year and (ii) the amount of any net capital losses

1.1.63 ~~1.1.50~~ “**Trustees’ Regulations**” means the regulations adopted by the Trustees pursuant to section 4.3;

1.1.64 ~~1.1.51~~ “**Unit**” means a participating unit interest in the Trust as designated under section 6.1.1.1 and that is more particularly described in section 6.1.2 below issued from time to time in accordance with the provisions hereof and includes a fraction of a participating unit interest in the Trust;

1.1.65 ~~1.1.52~~ “**Unit Certificate**” shall have the meaning ascribed thereto in section 6.15;

1.1.66 ~~1.1.53~~ “**Unitholder**” means a Person whose name appears on the Register as a holder of Units and includes, for the purposes of sections 15.1, 15.2 and 15.4 only, any Person who is a beneficial owner of a Unit;

1.1.67 “**Voting Top-Up Right**” shall have the meaning ascribed thereto in section 6.1.5;

1.1.68 Reserved;

1.1.69 ~~1.1.54~~ any reference to “**property**” or “**property of the Trust**” or “**assets**” or “**assets of the Trust**” includes, in each case, property and assets of the Trust and the Trust Property;

1.1.70 Reserved; and

1.1.71 ~~1.1.55~~ “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**” and similar expressions refer to this Declaration of Trust and include every instrument supplemental or ancillary to or in implementation of this Declaration of Trust and, except where the context otherwise requires, not to any particular article, section or other portion hereof or thereof.

## 1.2 References to Acts Performed by the Trust or Rights of the Trust

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

## 1.3 Income Tax Act

In this Declaration of Trust, any reference to the “*Income Tax Act (Canada)*” or the “*Income Tax Act*” shall refer to the *Income Tax Act*, Revised Statutes of Canada 1985, Chapter 1 (5th Supplement) and the regulations thereunder as amended from time to time applicable with respect thereto. Any reference herein to a particular provision of the *Income Tax Act* shall include a reference to that provision as it may be renumbered or amended from time to time. Where there are proposals for amendments to the *Income Tax Act* which have not been enacted into law or proclaimed into force on or before the date on which such proposals are to become effective, the Trustees may take such proposals into consideration and apply the provisions hereof as if such proposals had been enacted into law and proclaimed into force. Any reference herein to the *Income Tax Act (Canada)* or the *Income Tax Act* shall also include a reference to any applicable and corresponding provision under the income tax laws of a province or territory of Canada.

## ARTICLE 2 THE TRUST

### 2.1 Initial Contribution, Acceptance and Trust Property

On December 4, 2001, the Settlor, irrevocably transferred the Initial Contribution to the Trustees for the purpose of establishing the Trust. Receipt of the Initial Contribution was acknowledged by the Trustees and in consideration thereof the Settlor was thereby issued ten initial Units of the Trust. The Settlor thereby

### 3.8 Vacancies

The term of office of a Trustee shall terminate and a vacancy shall occur in the event of the death, resignation, bankruptcy, adjudicated incapacity or other incapacity to exercise the duties of the office or upon the removal of a Trustee. No such vacancy shall operate to annul this Declaration of Trust or affect the continuity of the Trust. Until vacancies are filled, the remaining Trustee or Trustees (even if less than a quorum) may exercise the powers of the Trustees hereunder. ~~It~~Subject to section 3.12, in case of a vacancy, the Unitholders or a majority of the Trustees continuing in office may fill such vacancy.

### 3.9 Successor and Additional Trustees

The rights of the Trustees to control and exclusively administer the Trust and to have the titles to the Trust Property drawn up in their names and all other rights of the Trustees at law shall vest automatically in all Persons who may hereafter become Trustees upon their due election or appointment and qualification without any further act and they shall thereupon have all the rights, privileges, powers, obligations and immunities of Trustees hereunder. Such rights shall vest in the Trustees whether or not conveyancing or transfer documents have been executed and delivered pursuant to section 3.6 or otherwise.

### 3.10 Compensation and Other Remuneration

Trustees who are not employees of and who do not receive salary from the Trust or its Affiliates shall be entitled to receive for their services as Trustees such reasonable compensation as the Trustees may determine from time to time, as well as reimbursement of their out-of-pocket expenses incurred in acting as a Trustee. Such Trustees, either directly or indirectly, shall also be entitled to receive remuneration for services rendered to the Trust in any other capacity. Such services may include, without limitation, services as an officer of the Trust, legal, accounting or other professional services or service, as a broker, transfer agent or underwriter, whether performed by a Trustee or any Person affiliated with a Trustee. Trustees who are employees of and who receive salary from the Trust or its Affiliates shall not be entitled to receive any remuneration for their services as Trustees but shall be entitled to reimbursement from the Trust of their out-of-pocket expenses incurred in acting as a Trustee.

### 3.11 Officers of the Trust

The Trust may have a Chairman, a Chief Executive Officer, a President, one or more Vice-Presidents and a Secretary and such other officers as the Trustees may appoint from time to time. One Person may hold two or more offices. Any officer of the Trust may, but need not, be a Trustee. The Chairman, if not a Trustee, shall be entitled to receive notice of and attend all meetings of the Trustees but, unless he or she is a Trustee, shall not be entitled to vote at any such meeting. Officers of the Trust shall be appointed and discharged and their remuneration determined by the Trustees provided that the Chief Executive Officer and/or President shall be appointed on an annual basis and with the consent of not less than 75% of the Trustees.

### 3.12 Appointees of MG Entities

3.12.1 Notwithstanding section 3.6, ~~for so long as~~the MG Entities shall be entitled at any time and from time to time to appoint one or more trustees to the Board of Trustees to the extent provided for in this section 3.12. Any such appointment shall be effective:

3.12.1.1 immediately following the conclusion of a meeting of Unitholders at which one or more trustees are proposed for election to the Board of Trustees if the MG Entities Representative has so specified to the Trust in writing; or

3.12.1.2 as of such other date so specified by the MG Entities Representative to the Trust in writing.

Any Trustee appointed by the MG Entities pursuant to this section 3.12 shall hold office from the effective date of appointment until the next annual meeting of Unitholders, until such Trustee otherwise ceases to be a Trustee or until such Trustee's successor is appointed by the MG Entities pursuant to this section 3.12.

3.12.2 Notwithstanding section 3.6, if the MG Entities collectively beneficially own at least 5% in aggregate of the issued and outstanding Units and Special Voting Units of the Trust as of the Appointment Test Date, the MG Entities Representative; shall be entitled to appoint one trustee to the Board of Trustees of the Trust and the number of trustees on the Board of Trustees shall be limited to a maximum of eight; ~~for so long as if~~ the MG Entities collectively beneficially own at least 15% in aggregate of the issued and outstanding Units and Special Voting Units of the Trust as of the Appointment Test Date, the MG Entities Representative shall be entitled to appoint a total of two trustees to the Board of Trustees of the Trust and the number of trustees on the Board of Trustees shall be limited to a maximum of eight; and ~~for so long as if~~ the MG Entities collectively beneficially own at least 25% in aggregate of the issued and outstanding Units and Special Voting Units of the Trust as of the Appointment Test Date, the MG Entities Representative shall be entitled to appoint a total of three trustees to the Board of Trustees of the Trust and the number of trustees on the Board of Trustees shall be limited to a maximum of nine.

3.12.3 For greater certainty, in the event any Trustee appointed by the MG Entities pursuant to this section 3.12 ceases to be a Trustee (whether in the event of the death, resignation, bankruptcy, adjudicated incapacity or other incapacity to exercise the duties of the office), the MG Entities Representative shall be entitled to appoint a trustee to fill such vacancy, at or at any time following such vacancy, provided that the MG Entities collectively beneficially own a sufficient number of Units and Special Voting Units of the Trust as of the Appointment Test Date applicable to such appointment. Notwithstanding section 3.8, any such vacancy may not be filled by the Unitholders or a majority of the Trustees continuing in office unless the MG Entities would not, at such time, be entitled to appoint a trustee to fill such vacancy. The rights of the MG Entities pursuant to this section 3.12 are not assignable other than to other MG Entities. The MG Entities shall exercise their rights under this section 3.12 collectively through the MG Entities Representative.

### **3.13 Certification of Holdings by MG Entities; Cancellation of Rights**

3.13.1 The Trust may, at any time upon written notice (but no more frequently than monthly), require that a representative of the MG Entity which then beneficially owns the largest number of Units and Special Voting Units (as shown on SEDI or in the absence of such filing, the last such MG Entity as shown on SEDI) deliver on behalf of all MG Entities a certificate to the Trust certifying the aggregate number of Units and Special Voting Units owned on a beneficial basis as of the date of such notice by the MG Entities.

3.13.2 Without limiting section 3.13.1, if, at any time, the minimum ownership ~~requirements~~requirement of the MG Entities in ~~each of sections~~section 10.3 ~~and 10.4.6 are~~is not met for a period of 15 consecutive days (or, if the Trust has put in place a black-out period during which insiders of the Trust may not trade in securities of the Trust, for a period of 15 consecutive days following the expiry of such black-out period), the rights and privileges granted to the MG Entities (other than any rights granted generally to Unitholders) in respect of which such minimum ownership ~~requirements~~requirement that ~~are~~is not met shall be irreversibly cancelled and be of no further force or effect.

## **ARTICLE 4 TRUSTEES' POWERS AND DUTIES**

### **4.1 General Powers**

The Trustees, subject only to the specific limitations contained in this Declaration of Trust, including without limitation sections 5.1 and 5.2, shall have, without further or other authorization and free from any power of control on the part of the Unitholders, full, absolute and exclusive power, control and authority over the assets of the Trust and over the affairs of the Trust to the same extent as if the Trustees were the

consolidation basis. In addition, any references in the foregoing to investment in Real Property will be deemed to include an investment in a joint venture.

All of the foregoing prohibitions, limitations or requirements pursuant to the foregoing policies shall be determined as at the date of investment or other action by the Trust.

### 5.3 Registered Investments

The Trustees shall cause the Trust to do all such things and take all such action as may be necessary from time to time to ensure that the Trust obtains and retains its status as a “registered investment” under the Income Tax Act. The Trustees shall take all steps necessary to ensure that the Trust does not make or hold any investment that would result in the Trust being liable for tax under Part XI or Part X.2 of the Income Tax Act.

### 5.4 Application of Investment Restrictions and Operating Guidelines

With respect to the investment restrictions and operating guidelines contained in Sections 5.1 and 5.2, where any maximum or minimum percentage limitation is specified in any of the restrictions therein contained, such restrictions shall be applied on the basis of the relevant amounts calculated immediately after the making of such investment. Any subsequent change relative to any percentage limitation which results from a subsequent change in the book value of the assets of the Trust or the amount of Adjusted Unitholders’ Equity will not require divestiture of any investment

### 5.5 Regulatory Matters

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

## ARTICLE 6 TRUST UNITS

### 6.1 Units

6.1.1 The beneficial interests in the Trust shall be divided into interests of two classes as follows:

6.1.1.1 the first of such classes shall be designated as “Variable Voting Units” until the ~~end of the annual meeting of Unitholders for the year 2020~~ Expiry Time and thereafter as “Units”, and

6.1.1.2 the second of such classes shall be designated as “Special Voting Units”.

The aforementioned classes of beneficial interests in the Trust shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein, and the interest of each Unitholder and Special Unitholder shall be determined by the number of Units and/or Special Voting Units registered in the name of the Unitholder or Special Unitholder.

6.1.2 Each Unit represents an equal undivided interest in the Trust. All Units outstanding from time to time shall be entitled to participate pro rata in any distributions by the Trust and, in the event of termination or winding-up of the Trust, in the net assets of the Trust. All Units shall rank among themselves equally and rateably without discrimination, preference or priority.

- 6.1.3 No Special Voting Unit shall be entitled to any interest or share in the distributions or net assets of the Trust. Special Voting Units may be issued in series and shall only be issued in connection with or in relation to Exchangeable Securities on such terms and conditions as may be determined by the Trustee. A Special Voting Unit shall be issued in conjunction with Exchangeable Securities issued and shall be automatically cancelled on the issuance of Units on exercise, conversion or cancellation of Exchangeable Securities. Subject to section 8.7.3, each Special Voting Unit shall entitle the Special Unitholder of record thereof to a number of votes at all meetings of Unitholders or in respect of any written resolution of Unitholders equal to the number of Units into which the Exchangeable Securities to which such Special Voting Unit relates are, directly or indirectly, exchangeable or convertible (other than in respect of Exchangeable Securities which have been so exchanged, converted or cancelled). For greater certainty, holders of Special Voting Units shall not be entitled to any distributions of any nature whatsoever from the Trust or have any legal or beneficial interests in any assets of the Trust on termination or winding-up of the Trust.
- 6.1.4 Concurrently with the issuance of any Exchangeable Securities and associated Special Voting Units, the Trust shall enter into such agreements, including voting and exchange trust agreements and Exchangeable Security support agreements, as may be necessary or desirable to properly provide for the terms of the Exchangeable Securities, including to provide for voting of such Special Voting Units;

6.1.5 Prior to the Expiry Time:

6.1.5.1 ~~6.1.5~~ If, in ~~any given~~ the 365 day period ~~in the five year period beginning on July 1 preceding an Issuance (as defined below), 2015:6.1.5.1~~ the average weighted aggregate number of Units and Special Voting Units (excluding any Additional Special Voting Units) beneficially owned or controlled by Mitchell Goldhar (while he remains alive) or the MG Entities (if Mitchell Goldhar is not alive) is equal to or greater than the lesser of (A) 20% of the voting rights attached to the issued and outstanding voting securities of the Trust (excluding any Additional Special Voting Units) and (B) ~~20,000,000~~22,800,000 voting securities of the Trust, provided that such ~~20,000,000~~22,800,000 voting securities represent no less than 10% of the voting rights attached to the issued and outstanding voting securities of the Trust (excluding any Additional Special Voting Units) at the time of such Issuance; and

6.1.5.2 at the time of such Issuance Mitchell Goldhar or another individual appointed by the MG Entities pursuant to section 3.12 is a Trustee;

the Trust shall issue (an "Issuance") such number of additional Special Voting Units (the "**Additional Special Voting Units**") to Mitchell Goldhar or such other MG Entity as is designated in writing to the Trust by the MG Entities Representative prior to such ~~issue~~Issuance, which will entitle Mitchell Goldhar (while he remains alive) or the MG Entities (if Mitchell Goldhar is not alive) to directly or indirectly cast 25% of the aggregate votes eligible to be cast at a meeting of the Unitholders or in respect of any written resolution of Unitholders (the "Voting Top-Up Right").

If on any record date for a meeting of Unitholders, the number of Units and Special Voting Units (including Additional Special Voting Units) beneficially owned or controlled by Mitchell Goldhar or the MG Entities, as applicable, carry voting rights that represent more than 25% of the aggregate votes eligible to be cast at such meeting of Unitholders (including the votes attached to then outstanding Additional Special Voting Units), then a number of the then outstanding Additional Special Voting Units will automatically be cancelled (with such cancellation to be effective immediately prior to such record date) equal to the lesser of: (i) all of the issued and outstanding Additional Special Voting Units beneficially owned or controlled by Mitchell Goldhar or the MG Entities, as applicable, immediately prior to such record date or (ii) the number of Additional Special Voting Units required to reduce the total votes represented by the Units and Special Voting Units (including Additional Special Voting Units) beneficially owned or controlled



by Mitchell Goldhar or the MG Entities, as applicable, to 25% of the aggregate votes eligible to be cast at such meeting of Unitholders.

Any outstanding Additional Special Voting Units issued pursuant to this section 6.1.5 will automatically be cancelled forthwith after the Expiry Time (with such cancellation to be effective immediately after the Expiry Time), unless this section 6.1.5 is amended to extend the Expiry Time or is otherwise amended to delay or modify such cancellation, in which case Additional Special Voting Units will remain outstanding until such time as cancelled in accordance with this section 6.1.5 as so amended.

The ~~rights of Mitchell Goldhar and the MG Entities pursuant to this section 6.1.5 are~~ Voting Top-Up Right is not assignable other than to other MG Entities. If Mitchell Goldhar is not alive or Mitchell Goldhar has assigned ~~his rights under this section 6.1.5~~ the Voting Top-Up Right to a MG Entity that he does not Control, the MG Entities shall exercise their voting rights collectively as Unitholders and not as individual Unitholders.

## **6.2 Ranking of Units**

Each Unit shall represent an equal undivided interest in the Trust with all other outstanding Units, all Units outstanding from time to time shall participate equally and ratably in any distributions by the Trust and, in the event of termination of the Trust, in the net assets of the Trust remaining after satisfaction of all liabilities and no Unit shall have any preference or priority over any other. Special Voting Units shall have no legal or beneficial interest in the distributions or assets of the Trust.

## **6.3 Consideration for Units**

6.3.1 Subject to the last two sentences of this section 6.3.1, a Unit shall not be fully paid until the consideration therefore has been received in full by or on behalf of the Trust. The consideration for any Unit shall be paid in money or in property or in past services that are not less in value than the fair equivalent of the money that the Trust would have received if the Unit had been issued for money. In determining whether property or past services are the fair equivalent of consideration paid in money, the Trustees may take into account reasonable charges and expenses of organization and reorganization and payments for property and past services reasonably expected to benefit the Trust. Units may be issued and sold on an instalment basis, in which event beneficial ownership of such Units may be represented by instalment receipts, but shall otherwise be non-assessable. When Units are issued and sold on an instalment basis, the Trust may take security over such Units as security for unpaid instalments, including, without limitation, a pledge as contemplated by an instalment receipt agreement.

6.3.2 Special Voting Units shall only be issued in connection with the issuance of Exchangeable Securities or pursuant to the operation of section 6.1.5 above.

## **6.4 No Pre-Emptive Rights**

There are no pre-emptive rights attaching to the Units.

## **6.5 Fractional Units**

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

The Investment Committee shall be entitled to delegate its responsibility to the management of the Trust for the foregoing matters provided that such matters do not exceed the applicable financial thresholds determined by the Trustees from time to time to be appropriate for management to consider and approve and may provide additional requirements, including setting out pre-determined financing terms, requiring management to review a matter with the Chair of the Investment Committee prior to approving such matter and requiring appropriate reporting requirements.

Notwithstanding the foregoing, in order to ensure compliance with the applicable securities laws relating to related party transactions, including the rules prescribed by Multinational Instrument 61-101 – Take-Over Bids and Special Transactions, all related party transactions will be approved by either the Board or the Investment Committee.

Notwithstanding the appointment of the Investment Committee and its ability to delegate to the management of the Trust, the Trustees may consider and approve any matter which the Investment Committee or the management of the Trust has the authority to consider or approve. The Trustees must also consider and approve any matter which exceeds the financial thresholds as determined by the Trustees from time to time.

#### 10.4 Corporate Governance and Compensation Committee

10.4.1 The Trustees shall appoint a corporate governance and compensation committee (the “**Corporate Governance and Compensation Committee**”) to consist of, ~~subject to section 10.4.6.1,~~ not less than three Trustees and not more than four Trustees, one of whom shall be a Trustee appointed by the MG Entities pursuant to section 3.12 hereof for so long as the MG Entities are the beneficial owners in aggregate of in excess of 15% of the issued and outstanding Units and/or Special Voting Units of the Trust (unless the prior written consent to the contrary or a written waiver of the MG Entities Representative, is obtained) and Mitchell Goldhar remains alive. The Trustee appointed by the MG Entities, for greater certainty, shall not be required to be independent for purposes of applicable securities laws, but, for greater certainty, all of the other members of the Corporate Governance and Compensation Committee shall be independent for purposes of the applicable securities laws and shall be independent of Mitchell Goldhar and any MG Entity.

10.4.2 ~~Subject to section 10.4.6.3, questions~~ Questions arising in any meeting of the Corporate Governance and Compensation Committee shall be decided by a majority of the votes cast.

10.4.3 Decisions of the Corporate Governance and Compensation Committee may be taken by written consent signed by all of the members of the Corporate Governance and Compensation Committee.

10.4.4 Any member of the Corporate Governance and Compensation Committee may call a meeting of the Corporate Governance and Compensation Committee upon not less than 48 hours notice.

10.4.5 Where for any reason a member of the Corporate Governance and Compensation Committee is disqualified from voting on or participating in a decision, any other independent and disinterested Trustee not already a member of the Corporate Governance and Compensation Committee may be designated by the Trustees to act as an alternate.

~~10.4.6 Until the earlier of (a) the end of the annual meeting of Unitholders for the year 2020; (b) December 31, 2020; and (c) the date that the MG Entities no longer beneficially own Units and Special Voting Units representing at least 10% of the outstanding Units and Special Voting Units:~~

~~10.4.6.1 notwithstanding section 10.4.1, the Corporate Governance and Compensation Committee shall consist of not more than three Trustees, one of whom shall be a Trustee appointed by the MG Entities pursuant to section 3.12, who, for greater certainty, shall not be required to be independent for purposes of applicable securities laws, but, for greater certainty, at least two members of the Corporate Governance and~~

~~Compensation Committee shall be independent for purposes of the applicable securities laws and shall be independent of Mitchell Goldhar and any MG Entity;~~

~~10.4.6.2 the mandate of the Corporate Governance and Compensation Committee shall include the following responsibilities:~~

~~10.4.6.2.1 the appointment and removal of the Chief Operating Officer and the Chief Development Officer of the Trust;~~

~~10.4.6.2.2 reviewing and approving any change to the compensation, including benefits, of the Chief Operating Officer and the Chief Development Officer of the Trust (other than any changes to Unit-based compensation plans generally applicable to all senior executives) where such change may be adverse to such officer; and~~

~~10.4.6.2.3 reviewing and approving any significant changes in the responsibilities of the Chief Operating Officer and the Chief Development Officer of the Trust; and~~

~~10.4.6.3 notwithstanding section 10.4.2 and 10.4.7, all decisions of the Corporate Governance and Compensation Committee related to the matters described in section 10.4.6.2 shall require unanimous approval of the members thereof~~

#### 10.4.6 **Intentionally Deleted.**

10.4.7 Notwithstanding the appointment of the Corporate Governance and Compensation Committee ~~and subject to section 10.4.6.3~~, the Trustees may consider and approve any matter which the Corporate Governance and Compensation Committee has authority to consider or approve.

## **10.5 Property Manager**

The Trustees may exercise broad discretion in allowing any property manager to manage the Real Property of the Trust, including operating, maintaining, leasing and marketing the said properties, to act as agent for the Trust in respect thereof and to execute documents on behalf of the Trustees in respect thereof, all subject to the overriding authority of the Trustees over the management and affairs generally of the Trust.

## **ARTICLE 11 DISTRIBUTIONS**

### **11.1 Distributions**

The Trust shall pay or declare payable to holders of Units monthly, and the holders of Units will have a right to receive, on each Distribution Date a pro rata share of such portion of the revenue of the Trust for the preceding calendar month then ended as the Trustees determine to distribute to the holders of Units. Distributions shall be made in cash or Units pursuant to any distribution reinvestment plan or distribution reinvestment and Unit purchase plan adopted by the Trustees pursuant to section 11.6. Any distribution shall be made proportionately to Persons who are holders of Units as at the close of business on the record date for such distribution which shall be the last business day of the calendar month preceding the month in which the Distribution Date falls, or if such date is not a business day then the next following business day, or such other date, if any, as is fixed in accordance with section 8.9. The Trustees, if they so determine when income has been accrued but not collected may, on a temporary basis, transfer sufficient moneys from the capital to the income account of the Trust to permit distributions under this section 11.1 to be effected.

**SCHEDULE "C"**  
**DECLARATION OF TRUST AMENDMENTS – INVESTMENT GUIDELINES AMENDMENTS**

(See Attached.)

**~~THIRTEENTH~~FOURTEENTH AMENDED AND RESTATED**

**DECLARATION OF TRUST**

**FOR**

**SMARTCENTRES REAL ESTATE INVESTMENT TRUST**

## SMARTCENTRES REAL ESTATE INVESTMENT TRUST

### ~~THIRTEENTH~~FOURTEENTH AMENDED AND RESTATED DECLARATION OF TRUST

THIS DECLARATION OF TRUST made the 4<sup>th</sup> day of December, 2001, as amended and restated as of the 24<sup>th</sup> day of October, 2002, as further amended and restated as of the 31<sup>st</sup> day of October, 2003, as further amended and restated as of the 16<sup>th</sup> day of January, 2004, as further amended and restated as of the 7<sup>th</sup> day of July, 2005, as further amended and restated as of the 16<sup>th</sup> day of May 2006, as further amended and restated as of the 14<sup>th</sup> day of September, 2009, as further amended and restated as of the 10<sup>th</sup> day of May, 2012, as further amended and restated as of the 29<sup>th</sup> day of December, 2014, as further amended and restated as of the 28<sup>th</sup> day of May, 2015, as further amended and restated as of the 3<sup>rd</sup> day of July, 2015, as further amended and restated as of the 11<sup>th</sup> day of May, 2017, as further amended and restated as of the 20<sup>th</sup> day of October, 2017 ~~and~~, as further amended and restated as of the 29<sup>th</sup> day of June, 2020 and as further amended and restated as of the 9<sup>th</sup> day of December, 2020.

#### RECITAL

WHEREAS the Trust was established for the principal purpose of providing persons who may become the holders of Units (“**Unitholders**”) of the Trust with an opportunity to invest in a trust owning a diversified portfolio of income-producing real property investments;

AND WHEREAS on December 4, 2001, ten initial Units of the Trust were issued to Laxus Holdings Inc. (the “**Settlor**”);

AND WHEREAS, the Trust first amended this Declaration of Trust on October 24, 2002 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on September 24, 2002;

AND WHEREAS, the Trust again amended this Declaration of Trust on October 31, 2003 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on September 23, 2003;

AND WHEREAS, the Trust again amended this Declaration of Trust on January 16, 2004 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on January 16, 2004;

AND WHEREAS, the Trust again amended this Declaration of Trust on July 7, 2005 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on July 7, 2005;

AND WHEREAS, the Trust again amended this Declaration of Trust on May 16, 2006 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 16, 2006;

AND WHEREAS the Trust again amended this Declaration of Trust on September 14, 2009 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 7, 2009;

AND WHEREAS the Trust again amended this Declaration of Trust on May 10, 2012 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 10, 2012;

AND WHEREAS the Trust again amended this Declaration of Trust on December 29, 2014 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on May 28, 2015 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 26, 2015;

AND WHEREAS the Trust again amended this Declaration of Trust on July 3, 2015 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on May 11, 2017 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 11, 2017;

AND WHEREAS the Trust again amended this Declaration of Trust on October 20, 2017 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on June 29, 2020 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on December 9, 2020 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on December 9, 2020;

AND WHEREAS, for greater certainty, the restatement of this Declaration of Trust shall not be deemed to constitute a termination of the Trust or a resettlement of this Declaration of Trust created hereby;

## DECLARATION

NOW THEREFORE, the undersigned, being all of the Trustees, hereby confirm that they agree to hold in trust as trustees any and all property, real, personal or otherwise, tangible or intangible, which has been at the date hereof or is hereafter transferred, conveyed or paid to them as such trustees, and all rents, income, profits and gains therefrom for the benefit of the Unitholders hereunder in accordance with and subject to the express provisions of this Declaration of Trust, to wit:

### ARTICLE 1 DEFINITIONS

#### 1.1 Definitions and Interpretation

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

- 1.1.1 “**Adjusted Unitholders’ Equity**” of the Trust, at any time, means the aggregate of the Carrying Value of Equity plus (i) the aggregate of the Carrying Values of the (a) earnout options, (b) deferred unit plan, (c) limited partnership units and (d) conversion feature of convertible debentures, to extent such items are classified as liabilities; and (ii) current and deferred income tax provision, if any; less the difference between (a) the Carrying Value of investment properties included on the consolidated balance sheet and (b) the Cost Value of investment properties;
- 1.1.2 “**Affiliate**” has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus and Registration Requirements*;
- 1.1.3 “**Aggregate Assets**” of the Trust, at any time, means the aggregate of (i) the total Carrying Value of the assets of the Trust plus (ii) accumulated amortization on property, plant and equipment; less (iii) the Carrying Value of goodwill; less (iv) the excess/shortfall between (a) the Carrying Value of investment properties presented on the consolidated balance sheet and (b) the Cost Value of investment properties presented on the consolidated balance sheet;
- 1.1.4 “**Annuitant**” means the annuitant ~~of a registered retirement savings plan or a registered retirement income fund or a deferred profit sharing plan~~, holder, subscriber or beneficiary, all as defined in ~~the applicable, of a Deferred Income Tax Act (Canada), Plan~~ or any other plan of which a Unitholder acts as trustee or carrier;
- 1.1.5 Reserved;
- 1.1.6 ~~1.1.5~~ “**Associate**” means, where used to indicate a relationship between an individual and a corporation, an individual who beneficially owns, directly or indirectly, voting securities carrying more than 10% of the voting rights attached to all voting securities of the corporation, a spouse of such individual or an immediate family member of such individual and, where used to indicate a relationship between an individual and a partnership, a partner of that partnership and, if such

partner is an individual, a spouse of such individual or an immediate family member of such individual;

1.1.7 ~~1.1.6~~ “**Audit Committee**” means the committee established pursuant to section 10.2;

1.1.8 ~~1.1.7~~ “**Business Day**” means any day other than a Saturday, Sunday or a day on which the principal chartered banks located at Calgary, Alberta are not open for business during normal banking hours;

1.1.9 “**Capital Lease Obligation**” of the Trust means the obligation to pay rent or other payment amounts under a lease of real or personal property of the Trust that would have been required to be classified and accounted for as a finance lease for financial reporting purposes in accordance with GAAP as in effect on December 31, 2018. The stated maturity of such obligation shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be terminated by the lessee without payment of a penalty. The principal amount of such obligation shall be the capitalized amount thereof that would appear on the face of a balance sheet of the Trust in accordance with GAAP;

1.1.10 ~~1.1.8~~ “**Carrying Value**” means the amounts determined in accordance with GAAP;

1.1.11 “**Cash Equivalents**” means:

1.1.11.1 Canadian or U.S. dollars, or cash in any other currencies,

1.1.11.2 deposits with a bank, trust company, savings institution, credit union or similar financial institution registered, organized or chartered under the laws of Canada, a province of Canada, the United States or a state of the United States;

1.1.11.3 securities issued by or directly and fully guaranteed or insured by the federal government of Canada, the United States, or any member state of the European Union (provided that such member state has a rating of “A” or higher from S&P, “A2” or higher from Moody’s or “A” or higher from DBRS) or any agency or instrumentality thereof (provided that the full faith and credit of the federal government of Canada, the United States or the relevant member state of the European Union is pledged in support of those securities) having maturities of not more than five years from the date of acquisition;

1.1.11.4 term deposits or money market accounts or certificates of deposit and eurodollar time deposits with Stated Maturities of 12 months or less from the date of acquisition, bankers’ acceptances with Stated Maturities not exceeding 12 months, and overnight bank deposits, in each case, with any bank referred to in Schedule I, Schedule II or Schedule III of the *Bank Act* (Canada) or rated at least A-1 or the equivalent thereof by S&P, at least P-1 or the equivalent thereof by Moody’s, or at least R-1 or the equivalent thereof by DBRS;

1.1.11.5 repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses 1.1.11.3 and 1.1.11.4 above entered into with any financial institution meeting the qualifications specified in clause 1.1.11.4 above;

1.1.11.6 commercial paper having one of the two highest ratings obtainable from Moody’s or S&P or, with respect to Canadian commercial paper, having one of the two highest ratings obtainable from DBRS, and, in each case, having a Stated Maturity of not more than 12 months from the date of acquisition; and

1.1.11.7 money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses 1.1.11.1 through 1.1.11.6 of this definition;



- 1.1.12 ~~1.1.9~~ “**Chairman**”, “**President**”, “**Vice-President**” and “**Secretary**” shall mean the Person(s) holding the respective office from time to time in accordance with section 3.11;
- 1.1.13 ~~1.1.10~~ “**Control**” of a corporation means ownership, directly or indirectly, of the voting securities which carry more than 50% of the votes for the election of directors of such corporation and such votes are sufficient, if exercised, to elect a majority of the board of directors of such corporation, and “**Control**” of a partnership, trust, joint venture, ownership arrangement or other ~~business entity~~ Entity means effective voting control of the decision-making of the partnership, trust, joint venture, ownership arrangement or other ~~business entity~~ Entity, as the case may be and “**Controlled**” and “**Controls**” shall have corresponding meanings;
- 1.1.14 ~~1.1.11~~ “**Cost Value**” of investment properties means the sum of (a) the original cost of investment properties, (b) the additional costs recorded in respect of subsequent expenditures eligible for capitalization under GAAP, and (c) less the original and additional costs of parts of such investment properties disposed or otherwise derecognized, for investment properties included on the consolidated balance sheet; all determined on a consolidated basis in accordance with GAAP. For greater certainty, for purposes of this definition, the cost of investment properties includes initial direct leasing costs that are added to investment properties under GAAP;
- 1.1.15 ~~1.1.12~~ “**court**” means the Court of Queen’s Bench of Alberta;
- 1.1.16 “**DBRS**” means DBRS Limited or any successors to the rating agency business thereof;
- 1.1.17 ~~1.1.13~~ “**Declaration of Trust**” means this declaration of trust, as amended, supplemented or amended and restated from time to time;
- 1.1.18 “**Deferred Income Plan**” means a registered retirement savings plan, registered retirement income fund, deferred profit sharing plan, registered disability savings plan, tax-free savings account or registered education savings plan, each as defined in the *Income Tax Act*;
- 1.1.19 ~~1.1.14~~ “**Dissenting Offeree**” means, where a Take-over Bid is made, a Unitholder who does not accept the Take-over Bid and includes a subsequent Unitholder who acquires the Units held by the first mentioned Unitholder;
- 1.1.20 ~~1.1.15~~ “**Distribution Date**” means, with respect to a distribution by the Trust, a business day determined by the Trustees for any calendar month to be on or about the 15<sup>th</sup> day of the following month;
- 1.1.21 “**Entity**” means a partnership, limited partnership, corporation, company, unlimited liability company, trust, unincorporated organization, association or any other business entity;
- 1.1.22 ~~1.1.16~~ “**Equity**” means, the residual between Total Assets and Total Liabilities determined in accordance with GAAP;
- 1.1.23 ~~1.1.17~~ “**Equity Value**” means the fair market value of the Units;
- 1.1.24 ~~1.1.18~~ “**Exchangeable Securities**” means any securities of any trust, limited partnership or corporation other than the Trust that are convertible or exchangeable directly for Units without the payment of additional consideration therefore;
- 1.1.25 Reserved;
- 1.1.26 ~~1.1.19~~ “**Fair Market Value**” means, at any time, at the option of the Trustees of the Trust either: (i) the fair market value of the assets of the Trust at such time, as determined by the Trustees of the Trust; or (ii) the fair market value of the Trust calculated as the aggregate outstanding indebtedness of the Trust at such time plus the value obtained when the aggregate number of Units and Exchangeable Securities outstanding at such time is multiplied by the weighted average

trading price of the Units on the Toronto Stock Exchange, or such other exchange upon which the Units of the Trust may be listed for trading, for the ten trading days immediately preceding such time;

1.1.27 ~~1.1.20~~ “**GAAP**” means, as at any date of determination, generally accepted accounting principles in effect in Canada as of the date thereof that are applicable to the Trust; provided that any determination as to whether a lease shall be classified as an operating lease or a finance lease shall be made in accordance with GAAP as in effect on December 31, 2018;

1.1.28 ~~1.1.21~~ “**Immediate Family Member**”, when used to indicate a relationship with an individual, means a parent, child or sibling of such individual;

1.1.29 “**income-producing**”, in respect of Real Property, includes such Real Property which generates consideration, value, rent, sub-rent, license fees and/or other revenues of any kind whatsoever in respect of the use or operation of all or any portion of such Real Property, or would do so but for a temporary suspension of operations;

1.1.30 ~~1.1.22~~ “**Initial Contribution**” means the amount of \$10.00 transferred and paid by the Settlor to the Trustees on December 4, 2001 for the purpose of establishing the Trust;

1.1.31 “**Intercompany Indebtedness**” means indebtedness of the Trust owed to any of its subsidiaries and indebtedness of any subsidiary of the Trust owed to the Trust and/or another of its subsidiaries, provided that the following amounts shall not be considered Intercompany Indebtedness: (i) upon the subsequent transfer or other disposition by the Trust or any of its subsidiaries to any Person other than the Trust or another of the Trust’s subsidiaries of such indebtedness, the amount of such indebtedness that was so transferred or otherwise disposed of to such other Person and (ii) in the case of indebtedness of the Trust owed to any of its subsidiaries, upon the subsequent issuance or disposition of common shares (including, without limitation, by consolidation or merger) of such subsidiary which results in such subsidiary ceasing to be a subsidiary of the Trust (and thereby for this purpose a “**third party**”), the amount of such indebtedness equal to the product obtained by multiplying the amount of such indebtedness by the percentage of common shares of the third party owned immediately after such issuance or disposition of such common shares by Persons other than the Trust or one of its subsidiaries;

1.1.32 “**Interest Rate, Currency or Commodity Price Agreement**” of any Person means any forward contract, futures contract, swap, option or other financial agreement or arrangement (including, without limitation, caps, floors, collars, puts and similar agreements) relating to, or the value of which is dependent upon, interest rates, currency exchange rates or commodity prices or indices, in each case that is (x) designed to protect such Person against fluctuations in interest rates or currency exchange rates, or in the case of currency or commodity protection agreements, against currency exchange rate or commodity price fluctuations and (y) entered into, in the ordinary course of business and not for purposes of speculation, with one or more financial institutions;

1.1.33 ~~1.1.23~~ “**MG Entities Representative**” means (i) while Mitchell Goldhar remains alive, Mitchell Goldhar or such other individual as may from time to time be designated in writing by Mitchell Goldhar and (ii) if Mitchell Goldhar is not alive, such individual as may from time to time be designated in writing by the MG Entities;

1.1.34 ~~1.1.24~~ “**MG Entity**” means (i) Mitchell Goldhar, (ii) any heir(s), executor(s), administrator(s) or legal representative(s) of Mitchell Goldhar; (iii) any individual who is the child, spouse, common law spouse, father, mother, brother, sister, niece or nephew of Mitchell Goldhar, or is married to any such individual; (iv) any trust(s) in respect of which all of the beneficiaries shall be solely one or more of those Persons referred to in clause (iii) above; (v) any combination of Persons referred to in clauses (i), (ii), (iii) or (iv) above; and (vi) any Person who is Controlled by any Person referred to in clauses (i), (ii), (iii) or (iv) above or any combination thereof;

- 1.1.35 [“Moody’s” means Moody’s Investors Service Inc. or any successors to the rating agency business thereof;](#)
- 1.1.36 ~~1.1.25~~ **“Mortgage”** means, under applicable law, any mortgage, charge, bond, debenture, note or other evidence of indebtedness, in each case, which is directly or indirectly secured by Real Property;
- 1.1.37 ~~1.1.26~~ **“Net Realized Capital Gains of the Trust”** for any year means the amount, if any, by which the amount of the capital gains of the Trust for the year exceeds the aggregate of (i) the amount of any capital losses of the Trust for the year and (ii) the amount of any net capital losses of the Trust carried forward from a previous year to the extent not previously deducted from realized capital gains of the Trust;
- 1.1.38 ~~1.1.27~~ **“Net Recapture Income of the Trust”** for any year means the amount, if any, by which the amount required to be included in the income of the Trust for income tax purposes for such year in respect of recapture of capital cost allowance exceeds the amount permitted to be deducted under subsection 20(16) of the *Income Tax Act* (Canada) for such year;
- 1.1.39 ~~1.1.28~~ **“Nominating Unitholder”** shall have the meaning ascribed thereto in section 3.6.1.3;
- 1.1.40 ~~1.1.29~~ **“Non-Resident”** means any Person that is neither a Resident Canadian nor a Canadian partnership for the purposes of the *Income Tax Act* (Canada);
- 1.1.41 ~~1.1.30~~ **“Notice Date”** shall have the meaning ascribed thereto in section 3.6.3.1;
- 1.1.42 ~~1.1.31~~ **“Offeree”** means a Person to whom a Take-over Bid is made;
- 1.1.43 ~~1.1.32~~ **“Offeror”** means a Person, other than an agent, who makes a Take-over Bid, and includes two or more Persons who, directly or indirectly,
- 1.1.43.1 ~~1.1.32.1~~ make a Take-over Bid jointly or in concert; or
- 1.1.43.2 ~~1.1.32.2~~ intend to exercise jointly or in concert voting rights attached to the Units for which a Take-over Bid is made;
- 1.1.44 ~~1.1.33~~ **“Outside Trustee”** means a Trustee that is not a member of management of the Trust or any of its subsidiaries;
- 1.1.45 ~~1.1.34~~ **“Person”** means an individual, partnership, limited partnership, corporation, company, unlimited liability company, trust, unincorporated organization, association, government, or any department or agency thereof and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual;
- 1.1.46 ~~1.1.35~~ **“Proposal”** shall have the meaning ascribed thereto in section 8.3.1;
- 1.1.47 ~~1.1.36~~ **“Real Property”** means property which in law is real property and includes, whether or not the same would in law be real property, leaseholds, mortgages, undivided joint interests in real property (whether by way of tenancy-in-common, joint tenancy, co-ownership, joint venture or otherwise), any interests in any of the foregoing and securities of corporations, trusts, limited partnerships or other legal entities whose sole or principal purpose and activity is to invest in, hold and deal in real property;
- 1.1.48 [“Refinancing Indebtedness” means indebtedness of the Trust or any of its subsidiaries which is incurred, or the proceeds of which are used, to renew, extend, repay, redeem, purchase, refinance or refund from time to time in whole or in part \(each, for the purposes of this definition, a “Refinancing”\) \(including any subsequent Refinancing\) any indebtedness of the Trust or any of its subsidiaries \(for the purposes of this definition, the “Original Indebtedness”\), provided that the](#)

amount of Refinancing Indebtedness (or subsequent Refinancing Indebtedness) does not exceed the total amount paid by the Trust to retire the Original Indebtedness or any prior Refinancing thereof (including any premium and all expenses incurred in connection therewith);;

- 1.1.49 ~~1.1.37~~ “**Register**” means the register which shall be established and maintained pursuant to section 6.16;
- 1.1.50 ~~1.1.38~~ “**Reorganization**” shall have the meaning ascribed thereto in section 2.10;
- 1.1.51 ~~1.1.39~~ “**Resident Canadian**” means an individual who is a resident of Canada for purposes of the *Income Tax Act* (Canada);
- 1.1.52 “S&P” means S&P Global Ratings, a division of S&P Global Inc., or any successor to the rating agency business thereof;
- 1.1.53 ~~1.1.40~~ “**SEDI**” means the System for Electronic Disclosure by Insiders;
- 1.1.54 ~~1.1.41~~ “**Settlor**” means Laxus Holdings Inc.;
- 1.1.55 ~~1.1.42~~ “**Special Unitholder**” means the holder of Special Voting Units;
- 1.1.56 ~~1.1.43~~ “**Special Voting Unit**” means the non-participating, voting unit of the Trust, other than a Unit, as designated under Section 6.1.1.2 and that are more particularly described in section 6.1.3 that has been authorized and issued hereunder;
- 1.1.57 ~~1.1.44~~ “**Subsidiary Trust**” shall have the meaning ascribed thereto in section 2.10;
- 1.1.58 ~~1.1.45~~ “**Subsidiary Units**” shall have the meaning ascribed thereto in section 2.10;
- 1.1.59 ~~1.1.46~~ “**Take-over Bid**” means an offer made by an Offeror to Unitholders at approximately the same time to acquire all of the Units (other than Units held by or on behalf of the Offeror or an Affiliate or associate of the Offeror);
- 1.1.60 ~~1.1.47~~ “**Trust**” means SmartCentres Real Estate Investment Trust, the trust established hereunder;
- 1.1.61 ~~1.1.48~~ “**Trust Property**”, at any time, shall, unless the contrary intention appears in any particular instance or instances in this Declaration of Trust, mean such of the following moneys, properties and assets as are at such time held by the Trust or by the Trustees on behalf of the Trust:
- 1.1.61.1 ~~1.1.48.1~~ the Initial Contribution;
- 1.1.61.2 ~~1.1.48.2~~ all funds realized from the sale of Units from time to time;
- 1.1.61.3 ~~1.1.48.3~~ all property of whatsoever nature and kind substituted by the Trustees for the foregoing moneys, properties or assets, in whole or in part, at any time and from time to time, all additional property of whatsoever nature and kind acquired, from time to time, by the Trustees that is to be held upon the trusts herein and all property substituted therefore, all property substituted for substituted property and shall include without limitation, all resultant assets and property, movable or immovable, tangible or intangible, and wheresoever situate anywhere in the world of any nature whatsoever and without limiting the generality of the foregoing, the Trust Property shall include all proceeds of policies of insurance, securities, shares, whether common or preferred or otherwise ranking, share warrants, bonds, debentures, bills of exchange or any other forms or evidence of title which may at any time hereafter be purchased or acquired by exchange or in any other manner whatsoever by the Trustees directly or indirectly as well as all interest, revenues and fruits which may at any time hereafter derive or accrue from any of the foregoing or from any part or parts thereof and shall further include the

interest, revenue and fruits which may at any time ever be derived or accrued from dealing in or the investment of or the reinvestment or exchange, without limit, of the investments and the proceeds thereof flowing from the property of the Trust in any manner whatsoever;

1.1.61.4 ~~1.1.48.4~~ any proceeds of disposition of any of the foregoing property; and

1.1.61.5 ~~1.1.48.5~~ all income, interest, profit, gains and accretions and additional assets, rights and benefits of any kind or nature whatsoever arising directly or indirectly from or in connection with or accruing to the foregoing monies, properties or assets or such proceeds of disposition;

1.1.62 ~~1.1.49~~ “**Trustee**” means, at any time, an individual who is, in accordance with the provisions hereof, a trustee of the Trust at that time; and “**Trustees**” means, at any time, all of the individuals each of whom is at that time a Trustee;

1.1.63 ~~1.1.50~~ “**Trustees’ Regulations**” means the regulations adopted by the Trustees pursuant to section 4.3;

1.1.64 ~~1.1.51~~ “**Unit**” means a participating unit interest in the Trust as designated under section 6.1.1.1 and that is more particularly described in section 6.1.2 below issued from time to time in accordance with the provisions hereof and includes a fraction of a participating unit interest in the Trust;

1.1.65 ~~1.1.52~~ “**Unit Certificate**” shall have the meaning ascribed thereto in section 6.15;

1.1.66 ~~1.1.53~~ “**Unitholder**” means a Person whose name appears on the Register as a holder of Units and includes, for the purposes of sections 15.1, 15.2 and 15.4 only, any Person who is a beneficial owner of a Unit;

1.1.67 **Reserved;**

1.1.68 any reference to “**the consolidated balance sheet**” is to the consolidated balance sheet of the Trust at the time of the relevant calculation, and “**Balance Sheet Date**” is the date as of which such consolidated balance sheet is presented;

1.1.69 ~~1.1.54~~ any reference to “**property**” or “**property of the Trust**” or “**assets**” or “**assets of the Trust**” includes, in each case, property and assets of the Trust and the Trust Property;

1.1.70 **Reserved;** and

1.1.71 ~~1.1.55~~ “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**” and similar expressions refer to this Declaration of Trust and include every instrument supplemental or ancillary to or in implementation of this Declaration of Trust and, except where the context otherwise requires, not to any particular article, section or other portion hereof or thereof.

## 1.2 References to Acts Performed by the Trust or Rights of the Trust

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

equity, may apply to a court for an order setting aside the contract or transaction and/or directing that such Person account to the Trust for any profit or gain realized.

## ARTICLE 5 INVESTMENT GUIDELINES AND OPERATING POLICIES

### 5.1 Investment Guidelines

The assets of the Trust may be invested, directly or indirectly (including, without limitation, through a corporation or other Entity wholly or partially owned by the Trust), only in accordance with the following guidelines:

5.1.1 the Trust will focus its ~~acquisition activities on existing income producing properties that are capital property of the Trust, including office, retail, industrial and mixed use properties, that are substantially leased;~~ investment activities on: (i) interests in Real Properties which are, may be or will be income-producing, which interests in Real Properties for greater certainty may include fee ownership and/or leasehold interest, and which Real Properties may include Real Properties which are intended for, have the potential for or are otherwise under, development and/or redevelopment;(ii) the development or redevelopment of Real Properties in which the Trust has an interest, and the construction of buildings, structures and/or other improvements thereon, including in each case of the foregoing to maintain those properties in good repair and/or to enhance their income-producing ability, and (iii) such other property and assets reasonably related or ancillary to: (x) any of the Real Property referred to in the foregoing clauses (i) or (ii); or (y) the other operations and/or affairs of the Trust, to the extent such operations and affairs are not prohibited by Section 5.2;

~~5.1.2 notwithstanding section 5.1.1, the Trust may acquire, hold, develop, maintain, improve, lease or manage real property which is being utilized or intended to be utilized to provide living accommodation;~~

5.1.2 ~~5.1.3~~ notwithstanding anything in this Declaration of Trust to the contrary, the Trust shall not make or hold any investment ~~or~~ take any action or omit to take any action that would result in Units (i) the Trust not being units of qualifying as a “mutual fund trust” ~~and of~~ a “unit trust” both within the meaning of the *Income Tax Act*, ~~that would result in~~ (ii) Units being disqualified for investment by registered retirement savings plans, registered retirement income funds, deferred profit sharing plans or registered education savings plans, or that would result in the Trust paying a tax under the registered investment provisions of the Income Tax Act imposed for exceeding certain investment limits not qualifying as qualified investments for Deferred Income Plans; or (iii) the Trust not qualifying as a “real estate investment trust” within the meaning of the Income Tax Act;

~~5.1.4 the Trust may, directly or indirectly, invest in a joint venture arrangement for the purposes of owning interests or investments otherwise permitted to be held by the Trust, provided that such joint venture arrangement contains terms and conditions which, in the opinion of the Trustees, are commercially reasonable, including without limitation such terms and conditions relating to restrictions on transfer and the acquisition and sale of the Trust's and any joint venturer's interest in the joint venture arrangement, provisions to provide liquidity to the Trust, such as buy-sell mechanisms, provisions that limit the liability of the Trust to third parties, and provisions that provide for the participation of the Trust in the management of the joint venture arrangement. For purposes of this provision, a joint venture arrangement is an arrangement between the Trust and one or more other Persons (“joint venturers”) pursuant to which the Trust, directly or indirectly, conducts an undertaking for one or more of the purposes set out above and in respect of which the Trust may hold its interest jointly or in common or in another manner with others either directly or through the ownership of securities of a corporation or other entity (a “joint venture entity”); including without limitation a general partnership, limited partnership or limited liability company;~~

- ~~5.1.5 — except for temporary investments held in cash, deposits with a Canadian chartered bank or trust company registered under the laws of a province of Canada, short term government debt securities, or in money market instruments of, or guaranteed by, a Schedule 1 Canadian chartered bank maturing prior to one year from the date of issue;~~
- 5.1.3 except for (x) investments in or represented by Cash Equivalents or Interest Rate, Currency or Commodity Price Agreements, (y) investments in securities of other real estate investment trusts as defined in the *Income Tax Act* or (z) investments otherwise permitted pursuant to any other provision of this Section 5.1, the Trust may not hold securities of a Person unless (i) such securities would constitute an investment in Real Property or are acquired in connection with the carrying on, directly or indirectly, of the Trust's activities or the holding of its assets or (ii) such securities are of an Entity which focuses its investments on any of the assets, properties or activities described in section 5.1.1.
- 5.1.4 in addition to the Trust ~~may not hold securities other than securities of a joint venture entity, trust or limited partnership or an entity or corporation wholly owned by the Trust formed and operated for the purpose of holding a particular itself managing its~~ Real Property or Real Properties or for any investments and engaging in other purpose relating to the activities of the Trust, and provided further that, reasonably ancillary to such investments, subject to section 5.1.2, and notwithstanding anything contained in this Declaration of Trust to the contrary, ~~the Trust may acquire securities of other real estate investment trusts;~~
- ~~5.1.6 — except as otherwise prohibited in this Declaration of Trust except for section 5.1.2, the Trust may invest in interests (including fee ownership and leasehold interests) in income producing Real Property that is capital property of the Trust;~~
- ~~5.1.7 — the Trust shall not acquire any single one or more operating businesses provided that such investment in real property (whether directly or is made indirectly through its interest in a trust, limited partnership or corporation) if the cost an Entity; and, for greater certainty, such an investment shall be considered to be part of the Trust of such acquisition (including encumbrances assumed) will exceed 20% of the Aggregate Assets calculated following such purchase;~~
- ~~5.1.8 — the Trust shall not invest in rights to or interests in mineral or other natural resources, including oil or gas, except as incidental targeted focus referred to in section 5.1.1 or part of activities authorized under section 5.1.5 (and therefore section 5.1.7 will not be engaged in any such case) if the conduct of such operating business reasonably relates to an investment in Real Property that is capital property of the Trust;~~
- ~~5.1.9 — the Trust shall not invest directly in operating businesses unless such investment is through a corporation, limited partnership or trust;~~
- ~~5.1.10 — subject to sections 5.1.3, 5.1.13 and 5.1.14 the Trust may invest indirectly in raw land for development properties provided such investment is through a corporation, limited partnerships or trust established for the purpose of (i) the renovation or expansion of existing facilities that are capital property of the Trust, or (ii) the development of new facilities which will be capital property of the Trust; referred to in section 5.1.1 or section 5.1.5 and if the conduct does not so relate, such investment may be made only in accordance with section 5.1.7;~~
- 5.1.5 in addition, subject to section 5.1.2, and notwithstanding anything in this Declaration of Trust to the contrary except for section 5.1.2, the Trust may indirectly invest in (i) Real Properties which are, may be or will be used by the current or any future owners thereof to provide living accommodations, whether or not such Real Properties are or will be income-producing, which interests in such Real Properties for greater certainty may include fee ownership and/or leasehold interest, and which Real Properties may include Real Properties which are intended for, have the potential for or are otherwise under, development and/or redevelopment; (ii) the development or redevelopment of such Real Properties in which the Trust has an interest, and the construction of buildings, structures and/or other improvements thereon, including in each case of the foregoing to

maintain those properties in good repair and/or to enhance their use as living accommodation, and (iii) such other property and assets reasonably related or ancillary to any of the Real Property referred to in the foregoing clauses (i) or (ii).

5.1.6 5.1.11 in addition, subject to ~~sections 5.1.13 and 5.1.14,~~ the Trust may invest in ~~mortgages or mortgage loans,~~ mortgage bonds ~~(including, with the consent of a majority of the Trustees, a mezzanine loans,~~ participating or convertible ~~mortgage) where:~~ mortgages, and similar loans, and acquire and hold security therefor; and

~~5.1.11.1 the Real Property which is security therefore is income producing Real Property which otherwise meets the general investment guidelines of the Trust adopted by the Trustees from time to time in accordance with this Declaration of Trust and the restrictions set out therein; and~~

~~5.1.11.2 the aggregate value of the investments of the Trust in these mortgages, after giving effect to the proposed investment, will not exceed 15% of the Equity Value;~~

~~5.1.12 the Trust may invest in mortgages if the primary intention is to use the acquisition of the mortgages as a method of acquiring control of income producing Real Property which would otherwise meet the investment guidelines of the Trust and provided the aggregate value of the investments of the Trust in these mortgages, after giving effect to the proposed investment, will not exceed 15% of the Equity Value; and~~

~~5.1.13 subject to sections 5.1.3 and 5.1.14, the Trust may acquire property that is “eligible resale property” as defined for purposes of the *Income Tax Act*, property described in sections 5.1.10 and 5.1.11 or property that would not comply with section 5.1.4, 5.1.5 or 5.2.3 provided that the aggregate fair value of all such property does not exceed 20% of Equity Value; and~~

~~5.1.14 notwithstanding anything in this Declaration of Trust to the contrary, the Trust shall not make any investment or take any action or omit to take any action that would result in the Trust not being a “real estate investment trust” within the meaning of the *Income Tax Act*.~~

~~For the purpose of the foregoing guidelines, the assets, liabilities and transactions of a corporation or other entity wholly or partially owned by the Trust will be deemed to be those of the Trust on a proportionate consolidation basis. In addition, any references in the foregoing to investment in Real Property will be deemed to include an investment in a joint venture arrangement. Nothing in the guidelines prohibits the Trust from holding or assigning some or all of the receivables due pursuant to any instalment receipt agreement~~

5.1.7 in addition, subject to section 5.1.2, and notwithstanding anything in this Declaration of Trust to the contrary except for section 5.1.2, the Trust may invest, directly or indirectly, in any property (including Real Property) or other assets that does not qualify for investment pursuant to Sections 5.1.1, 5.1.3, 5.1.4, 5.1.5 and/or 5.1.6 an amount (which, in the case of an amount invested to acquire Real Property, is the purchase price less the amount of any debt incurred or assumed in connection with such investment, and in the case of an investment in property and other assets which is not Real Property, the original investment amount) that, together with the amount of any other outstanding investments in property (including Real Property) or other assets made pursuant to this section 5.1.7, does not exceed 15% of the Aggregate Assets of the Trust.

Except as specifically set forth herein to the contrary, all of the foregoing prohibitions, limitations or requirements for investment shall be determined as at the date of investment by the Trust.

Notwithstanding anything in this Declaration of Trust to the contrary, unless and to the extent otherwise expressly prohibited or limited pursuant to the foregoing policies of this section 5.1 or the operating policies in section 5.2, the Trust may make investments and conduct activities, directly or indirectly, through an investment in one or more Entities on such terms as the Trustees may from time to time



determine, including by way of joint ventures, partnerships (general or limited), and limited liability companies.

## 5.2 Operating Policies

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

- 5.2.1 (i) any written instrument creating an obligation which is or includes the granting by the Trust of a mortgage, and (ii) to the extent the Trustees determine to be practicable and consistent with their duty to act in the best interests of the Unitholders, any written instrument which is, in the judgement of the Trustees, a material obligation, shall contain a provision or be subject to an acknowledgement to the effect that the obligation being created is not personally binding upon, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, the private property of any of the Trustees, Unitholders, Annuitants under a plan of which a Unitholder acts as a trustee or carrier, or officers, employees or agents of the Trust, but that only property of the Trust or a specific portion thereof shall be bound; the Trust, however, is not required, but shall use all reasonable efforts, to comply with this requirement in respect of obligations assumed by the Trust upon the acquisition of Real Property;
- 5.2.2 the Trust shall not lease or sublease to any Person any Real Property, premises or space where that Person and its Affiliates would, after the contemplated lease or sublease, be leasing or subleasing Real Property, premises or space having a fair market value net of encumbrances in excess of 20% of the Adjusted Unitholders' Equity of the Trust;
- 5.2.3 the limitation contained in subsection 5.2.2 shall not apply to the renewal or extension of a lease or sublease and shall not apply where the lessee or sublessee is, or where the lease or sublease is guaranteed (or an indemnity has been given) by:
- 5.2.3.1 the Government of Canada, the Government of the United States, any province of Canada, any state of the United States or any municipality in Canada or the United States, or any agency thereof;
- 5.2.3.2 any corporation, the bonds, debentures or other evidences of indebtedness of, or guaranteed by which, has received a rating from ~~Standard & Poors~~any of DBRS, Moody's or S&P of no less than investment grade (or equivalent from any other recognized credit rating agency) in each case, at the time the lease or sublease is entered into, or at the time other satisfactory leasing arrangements as determined by the Trustees, in their discretion, are entered into;
- 5.2.3.3 a Canadian chartered bank registered federally or under the laws of a province of Canada; or
- 5.2.3.4 Wal-Mart Canada Corp. and its related associates and affiliates.
- 5.2.4 the Trust may engage directly or indirectly in construction or development, including to maintain its properties in good repair or to enhance the income producing ability of properties in which the Trust has an interest;
- 5.2.5 title to each Real Property shall be drawn up in the name of the Trustees or, to the extent permitted by applicable law, the Trust or a corporation or other ~~entity~~Entity wholly owned, directly or indirectly, by the Trust or jointly, directly or indirectly, by the Trust with joint venturers;
- 5.2.6 the Trust will not incur or assume any indebtedness (except Intercompany Indebtedness or Refinancing Indebtedness) if, after giving effect to the ~~incurring~~incurrence or ~~assuming~~assumption of the indebtedness, ~~the total~~ and the application of proceeds therefrom and to any other event that has increased or decreased consolidated indebtedness or Aggregate Assets between the Balance Sheet Date and the date of the calculation, the Carrying Value of the consolidated indebtedness of

the Trust would be more than ~~60%~~65% of the Aggregate Assets (~~65% if convertible debentures are outstanding~~in the case of each such amount, less cash and Cash Equivalents on hand). The Trustees may in their discretion use Fair Market Value in place of Aggregate Assets for the purposes of this subsection. For the purposes of this subsection the term “**indebtedness**” means (without duplication and excluding “non-controlling interests”) on a consolidated basis:

- 5.2.6.1 ~~any obligation~~the principal of and premium (if any) in respect of indebtedness of the Trust for borrowed money;
- 5.2.6.2 any obligation of the Trust incurred or assumed in connection with the acquisition of property, assets or business;
- 5.2.6.3 the principal component (including any capitalized interest) of any obligation of the Trust issued or assumed ~~as representing the balance of~~ the deferred purchase price of property and which purchase price is due after the date of placing such property in service or taking delivery and title thereto;
- 5.2.6.4 any ~~capital lease obligation~~Capital Lease Obligation of the Trust; and
- 5.2.6.5 any obligation of the type referred to in clauses 5.2.6.1 through 5.2.6.4 of another Person, the payment of which the Trust has guaranteed or for which the Trust is responsible for or liable;

provided that (a) for the purposes of clauses 5.2.6.1 through 5.2.6.4, an obligation (other than convertible debentures) will constitute indebtedness only to the extent that it would appear as a liability on the consolidated balance sheet of the Trust in accordance with ~~generally accepted accounting principles;~~ (b) obligations referred to in clauses 5.2.6.1 through 5.2.6.3 exclude GAAP; (b) each of the following shall be deemed not to be indebtedness for purposes of this subsection: trade accounts payable, distributions payable to Unitholders and accrued liabilities arising out of the ordinary course of business; ~~and, indebtedness with respect to the unpaid balance of installment receipts, where such indebtedness has a term not in excess of 12 months, intangible liabilities, deferred revenues, limited partnership units of subsidiaries, deferred units classified as liabilities, earnout options classified as liabilities and the conversion feature of convertible debentures classified as liabilities;~~ (c) convertible debentures will constitute indebtedness to the extent of the principal amount thereof outstanding;

~~5.2.7 — the Trust shall not incur debt aggregating more than 20% of Aggregate Assets (other than unsecured trade payables, accrued expenses and distributions payable) at floating interest rates or having a maturity of less than one year, not including term debt falling due in the next twelve months or variable rate debt for which the Trust has entered into interest rate swap agreements to fix the interest rate for a one year period or greater~~ and (d) for the purposes of clause 5.2.6.5, the amount of indebtedness will be limited to the amount for which the Trust is responsible or liable (and where the Trust is so liable by virtue of the obligation of the other Person being secured by a lien on assets of the Trust, the amount will be the lesser of the (x) the Fair Market Value of such assets at the date of determination, and (y) the principal amount of such indebtedness of such other Person);

5.2.7 ~~5.2.8~~ the Trust may only, directly or indirectly, guarantee indebtedness or liabilities of ~~a third party provided that another entity where the provision of~~ such guarantee ~~is related to the direct or indirect ownership or acquisition by~~ does not breach the ~~Trust requirements~~ of Real Property that would otherwise comply with the investment restrictions and operating guidelines contained in sections 5.1 and 5.2;

5.2.8 ~~5.2.9~~ the Trust shall be obliged to obtain an independent appraisal of any property acquired by the Trust that the Investment Committee determines, in its discretion, should be supported by an independent appraisal;

5.2.9 ~~5.2.10~~ the Trust shall obtain and maintain at all times insurance coverage in respect of potential liabilities of the Trust and the accidental loss of value of the ~~assets~~ Real Property of the Trust from risks, in amounts, with such insurers, and on such terms as the Trustees consider appropriate, taking into account all relevant factors including the practices of owners of comparable ~~properties~~ Real Property; and

5.2.10 ~~5.2.11~~ the Trust shall have conducted a Phase I environmental audit of each Real Property to be acquired by it that the Investment Committee determines, in its discretion, should be supported by a Phase I environmental audit and, if the Phase I environmental audit report recommends a Phase II environmental audit be conducted and the Investment Committee determines, in its discretion, that a Phase II environmental audit is necessary, the Trust shall have conducted a Phase II environmental audit, in each case by an independent and experienced environmental consultant; such audit as a condition to any acquisition, shall be satisfactory to the Investment Committee. All new leases granted by the Trust shall contain appropriate covenants from the lessee respecting environmental matters as determined by the Investment Committee from time to time.

For the purposes of the foregoing policies, the assets, liabilities and transactions of a corporation or other ~~entity~~ Entity wholly or partially owned by the Trust will be deemed to be those of the Trust on a proportionate consolidation basis. In addition, any references in the foregoing to investment in Real Property will be deemed to include an investment in a joint venture.

All of the foregoing prohibitions, limitations or requirements pursuant to the foregoing policies shall be determined as at the date of investment or other action by the Trust.

Notwithstanding anything in this Declaration of Trust to the contrary, unless and to the extent otherwise expressly prohibited or limited pursuant to the foregoing policies of this Section 5.2 or the investment guidelines in Section REF Ref ContractCompanion 9kb9Ur037 \n \h \t \t \* MERGEFORMAT 5.1, the Trust may acquire, hold, develop, redevelop, maintain, improve, lease, manage, or sell all or any part of any Real Property.

### 5.3 ~~Registered Investments~~ Intentionally Deleted

~~The Trustees shall cause the Trust to do all such things and take all such action as may be necessary from time to time to ensure that the Trust obtains and retains its status as a “registered investment” under the Income Tax Act. The Trustees shall take all steps necessary to ensure that the Trust does not make or hold any investment that would result in the Trust being liable for tax under Part XI or Part X.2 of the Income Tax Act.~~

### 5.4 **Application of Investment Restrictions and Operating Guidelines**

With respect to the investment restrictions and operating guidelines contained in Sections 5.1 and 5.2, where any maximum or minimum percentage limitation is specified in any of the restrictions therein contained, such restrictions shall be applied on the basis of the relevant amounts calculated immediately after the making of such investment or taking such other applicable action. Any subsequent change relative to any percentage limitation which results from a subsequent change in the ~~book value~~ Carrying Value of the assets of the Trust or the amount of Aggregate Assets or Adjusted Unitholders' Equity, as applicable, will not require divestiture of any investment or unwinding of any applicable action.

### 5.5 **Regulatory Matters**

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

- 10.2.2 review the engagement of the Auditors;
- 10.2.3 review and recommend to the Trustees for approval annual and quarterly financial statements and management's discussion and analysis of financial condition and results of operation;
- 10.2.4 assess the Trust's financial and accounting personnel; and
- 10.2.5 review any significant transactions outside the Trust's ordinary course of business and all pending litigation involving the Trust.

The auditors of the Trust are entitled to receive notice of every meeting of the Audit Committee and, at the expense of the Trust, to attend and be heard thereat and, if so requested by a member of the Audit Committee, shall attend any meeting of the Audit Committee held during the term of office of the auditors. Questions arising at any meeting of the Audit Committee shall be decided by a majority of the votes cast. Decisions may be taken by written consent signed by all of the members of the Audit Committee. The auditors of the Trust or a member of the Audit Committee may call a meeting of the Audit Committee on not less than 48 hours' notice.

### 10.3 Investment Committee

The Trustees shall appoint an investment committee (the "**Investment Committee**") to consist of not less than three Trustees and not more than ~~five~~six Trustees, a majority of whom shall be Outside Trustees, two of whom shall be Trustees appointed by the MG Entities pursuant to section 3.12 hereof for so long as the MG Entities are the beneficial owners in aggregate of in excess of 15% of the issued and outstanding Units and/or Special Voting Units of the Trust (unless the prior written consent to the contrary or a written waiver of the MG Entities Representative, is obtained) and Mitchell Goldhar remains alive and two-thirds of whom shall have had at least 5 years of substantive experience in the real estate industry. The duties of the Investment Committee will be to:

- 10.3.1 review all proposals regarding investments;
- 10.3.2 review and approve or reject proposed acquisitions and dispositions of investments by the Trust or any of its subsidiaries or Affiliates that do not exceed the applicable financial thresholds determined by the Trustees from time to time;
- 10.3.3 review and approve or reject proposed transactions on behalf of the Trust or any of its subsidiaries or Affiliates that do not exceed the applicable financial thresholds determined by the Trustees from time to time; and
- 10.3.4 review and approve or reject all borrowings and the assumption or granting of any mortgage or other security interest in Real Property, including any assignment of rents and other monies derived from or related to Real Property, by the Trust or any of its subsidiaries and Affiliates that do not exceed the applicable financial thresholds determined by the Trustees from time to time.

Questions arising at any meeting of the Investment Committee shall be decided by a majority of the votes cast. Decisions may be taken by written consent signed by all of the members of the Investment Committee. Any member of the Investment Committee may call a meeting of the Investment Committee upon not less than 48 hours notice. Where for any reason a member of the Investment Committee is disqualified from voting on or participating in a decision, any other independent and disinterested Trustee not already a member of the Investment Committee may be designated by the Board to act as an alternate.

The Investment Committee shall be entitled to delegate its responsibility to the management of the Trust for the foregoing matters provided that such matters do not exceed the applicable financial thresholds determined by the Trustees from time to time to be appropriate for management to consider and approve and may provide additional requirements, including setting out pre-determined financing terms, requiring

**SCHEDULE "D"**  
**DECLARATION OF TRUST AMENDMENTS - GENERAL**

(See Attached.)

**~~THIRTEENTH~~FOURTEENTH AMENDED AND RESTATED**

**DECLARATION OF TRUST**

**FOR**

**SMARTCENTRES REAL ESTATE INVESTMENT TRUST**

## SMARTCENTRES REAL ESTATE INVESTMENT TRUST

### ~~THIRTEENTH~~FOURTEENTH AMENDED AND RESTATED DECLARATION OF TRUST

THIS DECLARATION OF TRUST made the 4<sup>th</sup> day of December, 2001, as amended and restated as of the 24<sup>th</sup> day of October, 2002, as further amended and restated as of the 31<sup>st</sup> day of October, 2003, as further amended and restated as of the 16<sup>th</sup> day of January, 2004, as further amended and restated as of the 7<sup>th</sup> day of July, 2005, as further amended and restated as of the 16<sup>th</sup> day of May 2006, as further amended and restated as of the 14<sup>th</sup> day of September, 2009, as further amended and restated as of the 10<sup>th</sup> day of May, 2012, as further amended and restated as of the 29<sup>th</sup> day of December, 2014, as further amended and restated as of the 28<sup>th</sup> day of May, 2015, as further amended and restated as of the 3<sup>rd</sup> day of July, 2015, as further amended and restated as of the 11<sup>th</sup> day of May, 2017, as further amended and restated as of the 20<sup>th</sup> day of October, 2017 ~~and~~, as further amended and restated as of the 29<sup>th</sup> day of June, 2020 and as further amended and restated as of the 9<sup>th</sup> day of December, 2020.

#### RECITAL

WHEREAS the Trust was established for the principal purpose of providing persons who may become the holders of Units (“**Unitholders**”) of the Trust with an opportunity to invest in a trust owning a diversified portfolio of income-producing real property investments;

AND WHEREAS on December 4, 2001, ten initial Units of the Trust were issued to Laxus Holdings Inc. (the “**Settlor**”);

AND WHEREAS, the Trust first amended this Declaration of Trust on October 24, 2002 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on September 24, 2002;

AND WHEREAS, the Trust again amended this Declaration of Trust on October 31, 2003 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on September 23, 2003;

AND WHEREAS, the Trust again amended this Declaration of Trust on January 16, 2004 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on January 16, 2004;

AND WHEREAS, the Trust again amended this Declaration of Trust on July 7, 2005 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on July 7, 2005;

AND WHEREAS, the Trust again amended this Declaration of Trust on May 16, 2006 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 16, 2006;

AND WHEREAS the Trust again amended this Declaration of Trust on September 14, 2009 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 7, 2009;

AND WHEREAS the Trust again amended this Declaration of Trust on May 10, 2012 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 10, 2012;

AND WHEREAS the Trust again amended this Declaration of Trust on December 29, 2014 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on May 28, 2015 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 26, 2015;

AND WHEREAS the Trust again amended this Declaration of Trust on July 3, 2015 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on May 11, 2017 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on May 11, 2017;

AND WHEREAS the Trust again amended this Declaration of Trust on October 20, 2017 pursuant to section 13.1;

AND WHEREAS the Trust again amended this Declaration of Trust on June 29, 2020 pursuant to section 13.1;

[AND WHEREAS the Trust again amended this Declaration of Trust on December 9, 2020 upon receipt of approval by the Unitholders for such amendment at a meeting of Unitholders held on December 9, 2020;](#)

AND WHEREAS, for greater certainty, the restatement of this Declaration of Trust shall not be deemed to constitute a termination of the Trust or a resettlement of this Declaration of Trust created hereby;

## DECLARATION

NOW THEREFORE, the undersigned, being all of the Trustees, hereby confirm that they agree to hold in trust as trustees any and all property, real, personal or otherwise, tangible or intangible, which has been at the date hereof or is hereafter transferred, conveyed or paid to them as such trustees, and all rents, income, profits and gains therefrom for the benefit of the Unitholders hereunder in accordance with and subject to the express provisions of this Declaration of Trust, to wit:

### ARTICLE 1 DEFINITIONS

#### 1.1 Definitions and Interpretation

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

- 1.1.1 “**Adjusted Unitholders’ Equity**” of the Trust, at any time, means the aggregate of the Carrying Value of Equity plus (i) the aggregate of the Carrying Values of the (a) earnout options, (b) deferred unit plan, (c) limited partnership units and (d) conversion feature of convertible debentures, to extent such items are classified as liabilities; and (ii) current and deferred income tax provision, if any; less the difference between (a) the Carrying Value of investment properties included on the consolidated balance sheet and (b) the Cost Value of investment properties;
- 1.1.2 “**Affiliate**” has the meaning ascribed thereto in National Instrument 45-106 – *Prospectus and Registration Requirements*;
- 1.1.3 “**Aggregate Assets**” of the Trust, at any time, means the aggregate of (i) the total Carrying Value of the assets of the Trust plus (ii) accumulated amortization on property, plant and equipment; less (iii) the Carrying Value of goodwill; less (iv) the excess/shortfall between (a) the Carrying Value of investment properties presented on the consolidated balance sheet and (b) the Cost Value of investment properties presented on the consolidated balance sheet;
- 1.1.4 “**Annuitant**” means the annuitant of a registered retirement savings plan or a registered retirement income fund or a deferred profit sharing plan, all as defined in the *Income Tax Act* (Canada), or any other plan of which a Unitholder acts as trustee or carrier;
- 1.1.5 [Reserved;](#)
- 1.1.6 ~~1.1.5~~ “**Associate**” means, where used to indicate a relationship between an individual and a corporation, an individual who beneficially owns, directly or indirectly, voting securities carrying more than 10% of the voting rights attached to all voting securities of the corporation, a spouse of such individual or an immediate family member of such individual and, where used to indicate a relationship between an individual and a partnership, a partner of that partnership and, if such



- 1.1.56 ~~1.1.43~~ “**Special Voting Unit**” means ~~the~~ a non-participating, voting unit ~~of interest in~~ the Trust, ~~other than a Unit,~~ as designated under ~~Section~~section 6.1.1.2 and ~~that are~~ more particularly described in section 6.1.3, that has been authorized and issued hereunder;
- 1.1.57 ~~1.1.44~~ “**Subsidiary Trust**” shall have the meaning ascribed thereto in section 2.10;
- 1.1.58 ~~1.1.45~~ “**Subsidiary Units**” shall have the meaning ascribed thereto in section 2.10;
- 1.1.59 ~~1.1.46~~ “**Take-over Bid**” means an offer made by an Offeror to Unitholders at approximately the same time to acquire all of the Units (other than Units held by or on behalf of the Offeror or an Affiliate or associate of the Offeror);
- 1.1.60 ~~1.1.47~~ “**Trust**” means SmartCentres Real Estate Investment Trust, the trust established hereunder;
- 1.1.61 ~~1.1.48~~ “**Trust Property**”, at any time, shall, unless the contrary intention appears in any particular instance or instances in this Declaration of Trust, mean such of the following moneys, properties and assets as are at such time held by the Trust or by the Trustees on behalf of the Trust:
- 1.1.61.1 ~~1.1.48.1~~ the Initial Contribution;
- 1.1.61.2 ~~1.1.48.2~~ all funds realized from the sale of Units from time to time;
- 1.1.61.3 ~~1.1.48.3~~ all property of whatsoever nature and kind substituted by the Trustees for the foregoing moneys, properties or assets, in whole or in part, at any time and from time to time, all additional property of whatsoever nature and kind acquired, from time to time, by the Trustees that is to be held upon the trusts herein and all property substituted therefore, all property substituted for substituted property and shall include without limitation, all resultant assets and property, movable or immovable, tangible or intangible, and wheresoever situate anywhere in the world of any nature whatsoever and without limiting the generality of the foregoing, the Trust Property shall include all proceeds of policies of insurance, securities, shares, whether common or preferred or otherwise ranking, share warrants, bonds, debentures, bills of exchange or any other forms or evidence of title which may at any time hereafter be purchased or acquired by exchange or in any other manner whatsoever by the Trustees directly or indirectly as well as all interest, revenues and fruits which may at any time hereafter derive or accrue from any of the foregoing or from any part or parts thereof and shall further include the interest, revenue and fruits which may at any time ever be derived or accrued from dealing in or the investment of or the reinvestment or exchange, without limit, of the investments and the proceeds thereof flowing from the property of the Trust in any manner whatsoever;
- 1.1.61.4 ~~1.1.48.4~~ any proceeds of disposition of any of the foregoing property; and
- 1.1.61.5 ~~1.1.48.5~~ all income, interest, profit, gains and accretions and additional assets, rights and benefits of any kind or nature whatsoever arising directly or indirectly from or in connection with or accruing to the foregoing monies, properties or assets or such proceeds of disposition;
- 1.1.62 ~~1.1.49~~ “**Trustee**” means, at any time, an individual who is, in accordance with the provisions hereof, a trustee of the Trust at that time; and “**Trustees**” means, at any time, all of the individuals each of whom is at that time a Trustee;
- 1.1.63 ~~1.1.50~~ “**Trustees’ Regulations**” means the regulations adopted by the Trustees pursuant to section 4.3;
- 1.1.64 ~~1.1.51~~ “**Unit**” means a participating unit interest in the Trust as designated under section 6.1.1.1 and that is more particularly described in section 6.1.2 below issued from time to time in

accordance with the provisions hereof and includes a fraction of a participating unit interest in the Trust; provided that for the purposes of Article 8, Article 13, Article 15 and Article 16 only and any defined terms used therein, unless expressly specified to the contrary, references to Units shall be deemed to include Special Voting Units;

1.1.65 ~~1.1.52~~ “Unit Certificate” shall have the meaning ascribed thereto in section 6.15;

1.1.66 ~~1.1.53~~ “Unitholder” means a Person whose name appears on the Register as a holder of Units and includes, for the purposes of sections 15.1, 15.2 and 15.4 only, any Person who is a beneficial owner of a Unit; provided that for the purposes of Article 8, Article 13, Article 15 and Article 16 only and any defined terms used therein, unless expressly specified to the contrary, references to Unitholders shall be deemed to include Special Unitholders;

1.1.67 Reserved;

1.1.68 Reserved;

1.1.69 ~~1.1.54~~ any reference to “property” or “property of the Trust” or “assets” or “assets of the Trust” includes, in each case, property and assets of the Trust and the Trust Property;

1.1.70 any reference to “includes” or “including” is deemed to mean “includes without limitation” or “including without limitation”; and

1.1.71 ~~1.1.55~~ “herein”, “hereof”, “hereby”, “hereunder” and similar expressions refer to this Declaration of Trust and include every instrument supplemental or ancillary to or in implementation of this Declaration of Trust and, except where the context otherwise requires, not to any particular article, section or other portion hereof or thereof.

## 1.2 References to Acts Performed by the Trust or Rights of the Trust

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

## 1.3 Income Tax Act

In this Declaration of Trust, any reference to the “*Income Tax Act (Canada)*” or the “*Income Tax Act*” shall refer to the *Income Tax Act*, Revised Statutes of Canada 1985, Chapter 1 (5th Supplement) and the regulations thereunder as amended from time to time applicable with respect thereto. Any reference herein to a particular provision of the *Income Tax Act* shall include a reference to that provision as it may be renumbered or amended from time to time. Where there are proposals for amendments to the *Income Tax Act* which have not been enacted into law or proclaimed into force on or before the date on which such proposals are to become effective, the Trustees may take such proposals into consideration and apply the provisions hereof as if such proposals had been enacted into law and proclaimed into force. Any reference herein to the *Income Tax Act (Canada)* or the *Income Tax Act* shall also include a reference to any applicable and corresponding provision under the income tax laws of a province or territory of Canada.

## ARTICLE 2 THE TRUST

### 2.1 Initial Contribution, Acceptance and Trust Property

On December 4, 2001, the Settlor, irrevocably transferred the Initial Contribution to the Trustees for the purpose of establishing the Trust. Receipt of the Initial Contribution was acknowledged by the Trustees and in consideration thereof the Settlor was thereby issued ten initial Units of the Trust. The Settlor thereby

additional Trustee if, after such appointment, the total number of Trustees would be greater than one and one-third of the number of Trustees in office immediately following the last annual meeting of Unitholders.

### **3.2 Trustees**

A Trustee, having been appointed, shall hold office until the next annual meeting of Unitholders, until such Trustee's removal or until such Trustee's successor is elected or appointed. Any one or more of the Trustees may be changed at any time or from time to time.

### **3.3 Qualifications of Trustees**

A Trustee shall be an individual. The following Persons are disqualified from being a Trustee of the Trust:

- 3.3.1 Anyone who is less than eighteen years of age;
- 3.3.2 Anyone who does not have the full exercise of his or her civil rights;
- 3.3.3 Anyone who is of unsound mind and has been so found by a Court in Canada or elsewhere;
- 3.3.4 Anyone who has been placed under protective supervision; and
- 3.3.5 A Person who has the status of a bankrupt.

Notwithstanding anything herein contained to the contrary, and, to the fullest extent permitted by applicable law, all the acts of the Trustees otherwise in accordance with this Declaration of Trust shall be valid notwithstanding any temporary failure to comply with the provisions of this paragraph.

A majority of the Trustees shall be Resident Canadians.

### **3.4 Intentionally deleted**

### **3.5 Election of Trustees**

Subject to sections 3.1, 3.2, 3.3, 3.8 and 3.12, the Trustees shall be elected (including the re-election of incumbent Trustees) at each annual meeting of Unitholders, and may be elected at a special meeting of Unitholders, in each case to hold office, subject to section 3.7, for a term expiring at the close of the next annual meeting of Unitholders following such an election. Any such election shall be made by a resolution approved by a majority of the votes cast at a meeting of Unitholders. The appointment or election of any Trustee (other than an individual who is serving as a Trustee immediately prior to such appointment or election) shall not become effective unless and until such Person has either before or after such appointment or election, executed and delivered to the Trust an acceptance substantially as follows:

“To: SmartCentres Real Estate Investment Trust (the “Trust”)

And to: The Trustees thereof

The undersigned hereby accepts to act as a trustee of the Trust and hereby agrees, upon the later of the date of this acceptance and the date of the undersigned's appointment or election as a trustee of the Trust, to thereby become a party, as a trustee, to the ~~Thirteenth~~Fourteenth Amended and Restated Declaration of Trust made as of ~~June 2~~December 9, 2020, as amended from time to time, constituting the Trust.”

Upon the later of a person being appointed or elected a Trustee hereunder and executing and delivering to the Trust an acceptance substantially as set forth above, such person shall become a Trustee hereunder and shall be deemed to be a party (as a Trustee) to this Declaration of Trust, as amended from time to time. For greater certainty, a Person who is a Trustee and is re-appointed as a Trustee does not have to provide any additional consents.

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

### 3.6 Nomination of Trustees

- 3.6.1 Subject to section 3.12, only Persons who are nominated in accordance with the following procedures (and who comply with the requirements of section 3.3) shall be eligible for election as Trustees. Nominations of Persons for election as a Trustee may be made at any annual meeting of Unitholders, or at any special meeting of Unitholders, if one of the purposes for which the special meeting was called was the election of Trustees:
- 3.6.1.1 by or at the direction of the Trustees, including pursuant to a notice of meeting;
  - 3.6.1.2 by or at the direction or request of one or more Unitholders or Special Unitholders pursuant to a requisition of the Unitholders or Special Unitholders made in accordance with this Declaration of Trust; or
  - 3.6.1.3 by any Person (a “**Nominating Unitholder**”) who (A) at the close of business on the date of the giving of the notice provided for below in this section 3.6 and on the record date for notice of such meeting, is a Unitholder or Special Unitholder~~or~~ who beneficially owns one or more Units or Special Voting Units; and (B) who complies with the procedures set forth below in this section 3.6.
- 3.6.2 In addition to any other applicable requirements, for a nomination to be made by a Nominating Unitholder, the Nominating Unitholder must have given timely notice thereof to the Trustees in the manner prescribed by this Declaration of Trust. Furthermore, if such notice is made on a day which is not a Business Day or later than 5:00 p.m. (Toronto Time) on a day which is a Business Day, then such notice shall be deemed to have been made on the next day that is a Business Day.
- 3.6.3 To be timely, a Nominating Unitholder’s notice to the Trustees must be made:
- 3.6.3.1 in the case of an annual meeting of Unitholders, not less than 30 days prior to the date of the annual meeting of Unitholders; provided, however, that in the event that the annual meeting of Unitholders is to be held on a date that is less than 50 days after the date (the “**Notice Date**”) on which the first public announcement of the date of the annual meeting was made, notice by the Nominating Unitholder may be made not later than the close of business on the 10th day following the Notice Date; and
  - 3.6.3.2 in the case of a special meeting (which is not also an annual meeting) of Unitholders called for the purpose of electing Trustees (whether or not called for other purposes), not later than the close of business on the 15th day following the day on which the first public announcement of the date of the special meeting of Unitholders was made.
- 3.6.4 A Nominating Unitholder’s notice to the Trustees must set forth:
- 3.6.4.1 as to each Person whom the Nominating Unitholder proposes to nominate for election as a Trustee: (A) the name, age, business address and residential address of the Person; (B) the principal occupation or employment of the Person; (C) the number of Units and Special Voting Units which are controlled or which are owned beneficially or of record by the Person as of the record date for the meeting of Unitholders (if such date shall then have been made publicly available and shall have occurred) and as of the date of such notice; and (D) any other information relating to the Person that would be required to be disclosed in a dissident’s proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable securities laws; and
  - 3.6.4.2 as to the Nominating Unitholder giving the notice, any proxy, contract, arrangement, understanding or relationship pursuant to which such Nominating Unitholder has a right

to vote any Units or Special Voting Units and any other information relating to such Nominating Unitholder that would be required to be made in a dissident's proxy circular in connection with solicitations of proxies for election of Trustees pursuant to applicable securities laws.

- 3.6.5 The Trust may require any proposed nominee to furnish such other information as may reasonably be required by the Trust to determine the eligibility of such proposed nominee to serve as an independent Trustee or that could be material to a reasonable Unitholder's understanding of the independence, or lack thereof, of such proposed nominee.
- 3.6.6 Subject to section 3.12, no Person shall be eligible for election as a Trustee unless nominated in accordance with the provisions of this section 3.6 and unless such Person complies with the requirements of section 3.3; provided, however, that nothing in this section 3.6 shall be deemed to preclude discussion by a Unitholder or Special Unitholder (as distinct from the nomination of Trustees) at a meeting of Unitholders of any matter in respect of which it would have been entitled to submit to a vote pursuant to the terms and conditions contained in this Declaration of Trust. The chair of the applicable meeting shall have the power and duty to determine whether a nomination was made in accordance with the procedures set forth in the foregoing provisions and, if any proposed nomination is not in compliance with such foregoing provisions, to declare that such defective nomination shall be disregarded.
- 3.6.7 For purposes of this section 3.6, "public announcement" shall mean disclosure in a press release reported by a national news service in Canada, or in a document publicly filed by the Trust under its profile on the System of Electronic Document Analysis and Retrieval at [www.sedar.com](http://www.sedar.com).
- 3.6.1 Notwithstanding the foregoing, the Trustees may, in their sole discretion, waive any requirement in this section 3.6.

### **3.7 Resignation, Removal and Death of Trustees**

A Trustee may resign at any time by an instrument in writing signed by him or her and delivered or mailed to the President or Secretary. Such resignation shall take effect on the date such notice is given or at any later time specified in the notice, provided that if, upon the resignation becoming effective, the number of remaining Trustees would be less than the number necessary to constitute a quorum for a meeting of Trustees, the resignation is not effective until the resigning Trustee's successor is duly appointed as a Trustee. A Trustee [\(other than a Trustee appointed by the MG Entities pursuant to section 3.12\)](#) may be removed at any time with or without cause by the affirmative vote of at least a majority of the votes cast at a meeting of Unitholders called for that purpose or with cause by resolution passed by an affirmative vote of not less than a majority of the remaining Trustees. Any removal of a Trustee shall take effect immediately following the aforesaid vote or resolution and any Trustee so removed shall be so notified by the Secretary or another officer of the Trust forthwith following such removal. Upon the resignation or removal of any Trustee, or his or her otherwise ceasing to be a Trustee, he shall (i) cease to have rights, privileges and powers of Trustees hereunder, (ii) execute and deliver such documents as the remaining Trustees shall reasonably require for the conveyance of any Trust Property held in his or her name, (iii) account to the remaining Trustees as they may require for all property which he or she holds as Trustee and (iv) resign from all representative or other positions held by him or her on behalf of the Trust, including without limitation, as a director or officer of any corporation in which the Trust owns any securities (directly or indirectly), upon which he or she shall thereupon be discharged of his obligations as Trustee. Upon the incapacity or death of any Trustee, his or her legal representative shall execute and deliver on his or her behalf such documents as the remaining Trustees may require as provided in this section. Upon a Trustee ceasing, to hold office as such hereunder, such Trustee shall cease to be a party (as a Trustee) to this Declaration of Trust; provided however that such Trustee shall continue to be entitled to be paid any amounts owing by the Trust to the Trustee and to the benefits of the indemnity provided in section 15.1. [For greater certainty, a Trustee appointed by the MG Entities pursuant to section 3.12 may only be removed with the written consent of the MG Entities.](#)

- 4.2.11 To collect, sue for and receive sums of money coming due to the Trust, and to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, proceedings, disputes, claims, demands or other litigation relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefore whether or not any suit is commenced or claim accrued or asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof,
- 4.2.12 To renew, modify, release, compromise, extend, consolidate or cancel, in whole or in part, any obligation to or of the Trust;
- 4.2.13 To purchase and pay for, out of the assets of the Trust, insurance contracts and policies insuring the assets of the Trust against any and all risks and insuring the Trust and/or any or all of the Trustees, the Unitholders or officers of the Trust against any and all claims and liabilities of any nature asserted by any Person arising by reason of any action alleged to have been taken or omitted by the Trust or by the Trustees, the Unitholders or the officers or otherwise;
- 4.2.14 To cause title to any of the assets of the Trust to be drawn up in the name of the Trustees, and/or, to the extent permitted by applicable law, in the name of the Trust or one or more of the Trustees or any other Person, on such terms, in such manner with such powers in such Person as the Trustees may determine and with or without disclosure that the Trust or Trustees are interested therein provided, however, that should title to any of the assets of the Trust be held by and/or in the name of any Person or Persons other than the Trust or Trustees as aforesaid, the Trustees shall require such Person or Persons to execute a declaration of trust acknowledging that title to such assets is held in trust for the benefit of the Trust;
- 4.2.15 To determine conclusively the allocation to capital, income or other appropriate accounts of all receipts, expenses, disbursements and property of the Trust;
- 4.2.16 To prepare, sign and file or cause to be prepared, signed and filed any prospectus, information circular, offering memorandum or similar document, and any amendment thereto, relating to or resulting from an offering of Units or other securities issued or held by the Trust and to pay the cost thereof and related thereto and any fees related thereto out of the property of the Trust whether or not such offering is or was of direct benefit to the Trust or those Persons (if any) who were Unitholders or holders of Exchangeable Securities, immediately prior to such offering;
- 4.2.17 To make or cause to be made application for the listing on any stock exchange of any Units or other securities of the Trust, and to do all things which in the opinion of the Trustees may be necessary or desirable to effect or maintain such listing or listings;
- 4.2.18 To determine conclusively the value of any or all of the property of the Trust from time to time and, in determining such value, to consider such information and advice as the Trustees, in their sole judgement, may deem material and reliable;
- 4.2.19 To do all such acts and things and to exercise such powers which are delegated to the Trustees by any Person who co-owns Real Property with the Trust;
- 4.2.20 To do all such other acts and things as are incidental to the foregoing and to exercise all powers which are necessary or useful to carry on the affairs of the Trust, to promote any of the purposes for which the Trust is formed and to carry out the provisions of this Declaration of Trust.

### **4.3 Further Powers of the Trustees**

The Trustees shall have the power to prescribe any form provided for or contemplated by this Declaration of Trust. The Trustees may make, adopt, amend, or repeal regulations containing provisions relating to the Trust, the conduct of its affairs, their rights or powers and the rights or powers of its Unitholders or Special Unitholders or officers not inconsistent with law or with this Declaration of Trust and not, in the opinion of the Trustees, prejudicial to Unitholders or Special Unitholders. The Trustees shall also be entitled to make

## 5.5 Regulatory Matters

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

## ARTICLE 6 TRUST UNITS

### 6.1 Units

6.1.1 The beneficial interests in the Trust shall be divided into interests of two classes as follows:

6.1.1.1 the first of such classes shall be designated as “Variable Voting Units” until the end of the annual meeting of Unitholders for the year 2020 and thereafter as “Units”, and

6.1.1.2 the second of such classes shall be designated as “Special Voting Units”.

The aforementioned classes of beneficial interests in the Trust shall be entitled to the rights and subject to the limitations, restrictions and conditions set out herein, and the interest of each Unitholder and Special Unitholder shall be determined by the number of Units and/or Special Voting Units registered in the name of the Unitholder or Special Unitholder.

6.1.2 Each Unit represents an equal undivided interest in the Trust. All Units outstanding from time to time shall be entitled to participate pro rata in any distributions by the Trust and, in the event of termination or winding-up of the Trust, in the net assets of the Trust. All Units shall rank among themselves equally and rateably without discrimination, preference or priority.

6.1.3 No Special Voting Unit shall be entitled to any interest or share in the distributions or net assets of the Trust. Special Voting Units may be issued in series and, other than Additional Special Voting Units issued pursuant to section 6.1.5, shall only be issued in connection with or in relation to Exchangeable Securities on such terms and conditions as may be determined by the Trustee. A Special Voting Unit shall be issued in conjunction with Exchangeable Securities issued and shall be automatically cancelled on the issuance of Units on exercise, conversion or cancellation of Exchangeable Securities. Subject to section 8.7.3, each Special Voting Unit shall entitle the Special Unitholder of record thereof to a number of votes at all meetings of Unitholders or in respect of any written resolution of Unitholders that is equal to (i) the number of Units into which the Exchangeable Securities to which such Special Voting Unit relates are, directly or indirectly, exchangeable or convertible (other than in respect of Exchangeable Securities which have been so exchanged, converted or cancelled) or (ii) in the case of an Additional Special Voting Unit, the number of votes that are eligible to be cast in respect of one Unit. Each Special Voting Unit shall entitle the Special Unitholder of record thereof to one vote for each Special Voting Unit held by such holder at all meetings of Special Unitholders. For greater certainty, holders of Special Voting Units shall not be entitled to any distributions of any nature whatsoever from the Trust or have any legal or beneficial interests in any assets of the Trust on termination or winding-up of the Trust.

6.1.4 Concurrently with the issuance of any Exchangeable Securities and associated Special Voting Units, the Trust shall enter into such agreements, including voting and exchange trust agreements and Exchangeable Security support agreements, as may be necessary or desirable to properly provide for the terms of the Exchangeable Securities, including to provide for voting of such Special Voting Units;

6.1.5 If in any given 365 day period in the five year period beginning on July 1, 2015:

by registered mail in a postage prepaid envelope addressed to the former Unitholder. Upon such payment, the Trust shall be discharged from all liability to the former Unitholder in respect of the Units so redeemed. No fractional Notes in a principal amount less than \$1 will be distributed and where the number of Notes to be received by the former Unitholder includes a fraction or a principal amount less than a multiple of \$1, such number shall be rounded to the next lowest number or multiple of \$1, as the case may be.

#### 7.6 Cancellation of all Redeemed Units

All Units which are redeemed under this Article 7 shall be cancelled and such Units shall no longer be outstanding and shall not be reissued.

#### 7.7 Subordination

Following any in specie redemption pursuant to the operation of section 7.5, holders of Notes will be required to acknowledge that they are subject to any applicable subordination agreements as may be determined by the Trustees prior to delivery of such Notes to the Unitholder.

### ARTICLE 8 MEETINGS OF UNITHOLDERS

#### 8.1 Annual Meeting

There shall be an annual meeting of the Unitholders at such time and place as the Trustees shall prescribe for the purpose of electing Trustees, appointing the auditors of the Trust and transacting such other business as the Trustees may determine or as may properly be brought before the meeting. The annual meeting of Unitholders shall be held after delivery to the Unitholders of the annual report referred to in section 16.6 and, in any event, within 180 days after the end of each fiscal year of the Trust, ~~provided that the annual meeting of Unitholders for the year 2020 shall be held no later than December 31, 2020.~~ Notwithstanding the foregoing, the Trust may apply to the court for an order extending the time for calling an annual meeting. ~~For the purpose of the annual meeting of Unitholders for the year 2020, the~~ The Trustees may in their sole discretion determine that a meeting shall not be held at any place but may instead be held entirely by means of a telephonic, electronic or other communication facility that permits all participants to communicate during the meeting pursuant to this Section 8.1 if the Trust is able to, and does, make available such a communication facility.

If authorized by the Trustees in their sole discretion and subject to such guidelines and procedures as the Trustees may adopt, Unitholders and proxyholders not physically present at ~~the 2020 annual~~ a meeting of Unitholders may, by means of a telephonic, electronic or other communication facility that permits all participants to communicate during the ~~2020 annual~~ meeting of Unitholders, if the Trust makes available such a communication facility:

8.1.1 participate in ~~the 2020 annual~~ a meeting of Unitholders: and

8.1.2 be deemed present in Person and vote at ~~the 2020 annual~~ a meeting of Unitholders whether such meeting is to be held at a designated place or solely by means of a telephonic, electronic or other communication facility, provided that (i) the Trust shall implement reasonable measures to verify that each Person deemed present and permitted to vote at the meeting by means of a telephone, electronic or other communication facility is a Unitholder or proxyholder; (ii) the Trust shall implement reasonable measures to provide such Unitholders and proxyholders a reasonable opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings and to vote on such matters submitted to the Unitholders; and (iii) if any Unitholder or proxyholder votes or takes other action at the meeting by means of a telephone, electronic or other communication facility, a record of such votes or other action shall be maintained by the Trust.

A Unitholder or proxyholder participating in ~~the 2020 annual~~ a meeting of Unitholders by such means is deemed for the purposes of this Declaration of Trust to be present at the meeting.



Any Person entitled to vote at ~~the 2020 annual~~ meeting of Unitholders where the Trust has made available a telephonic, electronic or other communication facility for the purposes of attending and voting at such meeting may vote by such means of the telephonic, electronic or other communication facility that the Trust has made available for the purpose. Any vote referred to in Section 8.6 may be held entirely by means of a telephonic, electronic or other communication facility if the Trust makes available such a communication facility, provided, in each case, that the facility: (i) enables the votes to be gathered in a manner that permits their subsequent verification; and (ii) permits the tallied votes to be presented to the Trust without it being possible for the Trust to identify how each Unitholder or group of Unitholders voted.

## 8.2 Other Meetings

The Trustees shall have power at any time to call special meetings of the Unitholders at such time and place as the Trustees may determine. Unitholders ~~and Special Unitholders~~ holding Units that, in the aggregate, represent not less than 5% of the outstanding Units (excluding any Additional Special Voting Units ~~and Units)~~ entitled to vote at a meeting of the Unitholders of the Trust may requisition the Trustees to call a special meeting of the Unitholders for the purposes stated in the requisition. The requisition shall state in reasonable detail the business to be transacted at the meeting and shall be sent to each of the Trustees at the head office of the Trust. Upon receiving the requisition, the Trustees shall call a meeting of Unitholders to transact the business referred to in the requisition, unless (i) a record date for a meeting of the Unitholders has been fixed and notice thereof has been given to each stock exchange in Canada on which the Units are listed for trading; (ii) the Trustees have called a meeting of the Unitholders and have given notice thereof pursuant to section 8.4; or (iii) in connection with the business as stated in the requisition:

- 8.2.1 it clearly appears that the matter covered by the requisition (i) is submitted by the Unitholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the Trust, the Trustees, the officers of the Trust or its Unitholders or other securityholders, or primarily for the purpose of promoting general economic, political, racial, religious, social or similar causes; or (ii) does not relate in a significant way to the business or affairs of the Trust;
- 8.2.2 the Trust, at the Unitholder's request, included a matter covered by a requisition in an information circular relating to a meeting of Unitholders held within two years preceding the receipt of such request and the Unitholder failed to present the matter, in person or by proxy, at the meeting;
- 8.2.3 substantially the same matter covered by the requisition was submitted to Unitholders in an information circular (including a dissidents information circular) relating to a meeting of Unitholders held within two years preceding the receipt of the Unitholder's request and the matter covered by the requisition was defeated; or
- 8.2.4 the rights conferred by this section 8.2 are being abused to secure publicity.

Subject to the foregoing, if the Trustees do not within 21 days after receiving the requisition to call a meeting of the Unitholders, any Unitholder entitled to vote at a meeting of the ~~Unitholders or any Special~~ Unitholders who signed the requisition may call the meeting in accordance with the provisions of sections 8.4 and 8.9 and the Trustees' Regulations, *mutatis mutandis*. If there shall be no Trustees, the officers of the Trust shall promptly call a special meeting of the Unitholders for the election of successor Trustees. The phrase "meeting of the Unitholders" wherever it appears in this Declaration of Trust shall mean and include both an annual meeting and any other meeting of Unitholders entitled to vote at a meeting of the Unitholders. Unless the Unitholders otherwise resolve at a meeting called under this section 8.2, the Trust shall reimburse the Unitholders who have signed a valid requisition the expenses reasonably incurred by them in requisitioning, calling and holding the meeting.

## 8.3 Unitholder Proposals

- 8.3.1 Subject to sections 8.3.2 and 8.3.3, a ~~Unitholder or a Special~~ Unitholder may (i) submit written notice to the Trust of any matter that the Person proposes to raise at an annual meeting of

Unitholders (a “**Proposal**”) and (ii) discuss at the meeting any matter with respect to which the Person would have been entitled to submit a Proposal.

8.3.2 To be eligible to submit a Proposal, a Person:

8.3.2.1 must be, for at least the six-month period immediately before the day on which the Person submits the Proposal, the registered holder or the beneficial owner of (A) at least 1% of the total number of outstanding Units ~~and~~ (excluding any Additional Special Voting Units), as of the day on which the person submits a Proposal, or (B) Units ~~and Special Voting Units~~ whose fair market value, as determined at the close of business on the Business Day before the Person submits the Proposal, is at least \$2,000; or

8.3.2.2 must have the support of Persons who, in the aggregate, and including or not including the Person that submits the Proposal, have been, for at least the six-month period immediately before the day on which the Person submits the Proposal, the registered holders or beneficial owners of (A) at least 1% of the total number of outstanding Units ~~and~~ (excluding any Additional Special Voting Units), as of the day on which the Person submits the Proposal, or (B) Units ~~and Special Voting Units~~ whose fair market value, as determined at the close of business on the Business Day before the Person submits the Proposal, is at least \$2,000.

8.3.3 A Proposal must be accompanied by the following information:

8.3.3.1 the name and address of the Person submitting the Proposal and the Person's supporters, if applicable; and

8.3.3.2 the number of ~~Units and Special Voting~~ Units, as applicable, held or owned by the Person submitting the Proposal and the Person's supporters, if applicable, and the date the Units ~~and Special Voting Units~~ were acquired.

8.3.4 If requested by the Trust within 14 days of the receipt of the Proposal, a Person who submits a Proposal must provide proof, within 21 days following the day on which the Person receives the Trust's request, or if the request was mailed to the Person, within 21 days after the postmark date stamped on the envelope containing the request, that the Person meets the requirements set out in section 8.3.2.

8.3.5 The Trust shall set out the Proposal in its information circular delivered in connection with its annual meeting or attach the Proposal thereto.

8.3.6 If so requested by the Person who submits the Proposal, the Trust shall include in, or attach to, its information circular delivered in connection with its annual meeting, a statement in support of the Proposal by the Person and the name and address of the person making the Proposal. The statement and Proposal so included must not exceed 500 words excluding the information required by section 8.3.3.

8.3.7 A Proposal may not include nominations for the election of Trustees and a ~~Unitholder or Special~~ Unitholder shall not have the right to make nominations at the meeting, unless such nomination is made in accordance with the provisions of section 3.6.

8.3.8 The Trust shall not be required to comply with subsections 8.3.5 and 8.3.6 if:

8.3.8.1 the Proposal is submitted (i) less than 90 days before the anniversary date of the notice of meeting that was sent to Unitholders in connection with the Trust's previous annual meeting of Unitholders; or (ii) with respect to the 2021 annual meeting of unitholders, after February 1, 2021;

- 8.3.8.2 it clearly appears that (A) the primary purpose of the Proposal is to enforce a personal claim or redress a personal grievance against the Trust, the Trustees, its officers, the Unitholders or other securityholders of the Trust, or (B) the Proposal does not relate in a significant way to the business or affairs of the Trust;
- 8.3.8.3 not more than two years preceding the receipt of such Proposal, the proposing Person failed to present, in person or by proxy, at a meeting of Unitholders, a Proposal that, at the Person's request, had been included in an information circular relating to a meeting of the Unitholders;
- 8.3.8.4 substantially the same proposal was submitted to Unitholders in an information circular relating to a meeting of the Unitholders held within five years preceding the receipt of the Proposal and the matter covered by the Proposal did not receive the required support at that meeting. For the purposes hereof, the required support for a Proposal is:
  - 8.3.8.4.1 3% of the total number of Units ~~and~~(excluding any Additional Special Voting Units) voted, if the Proposal has been introduced at only one annual meeting of Unitholders;
  - 8.3.8.4.2 6% of the total number of Units ~~and~~(excluding any Additional Special Voting Units) voted at the last meeting at which the matter was submitted to Unitholders, if the Proposal was introduced at two annual meetings of Unitholders; and
  - 8.3.8.4.3 10% of the total number of Units ~~and~~(excluding any Additional Special Voting Units) voted at the last meeting at which the matter was submitted to Unitholders, if the Proposal was introduced at three or more annual meetings of Unitholders; or
- 8.3.8.5 the rights conferred by this section are being abused to secure publicity.
- 8.3.9 If a Person who submits a Proposal fails to continue to hold or own the number of Units ~~and~~(excluding any Additional Special Voting Units) referred to in section 8.3.2 up to and including the day of the meeting, the Trust is not required to set out in its information circular, or attach to it, any proposal submitted by that Person for any meeting held within two years following the date of the meeting.
- 8.3.10 Neither the Trust nor any Person acting on its behalf will incur any liability to Unitholders or any other Person by reason only of circulating a Proposal or statement in compliance with this section.
- 8.3.11 If the Trust refuses to include a Proposal in its information circular, it shall, within 21 days of the later of receipt of the Proposal or proof of ownership under subsection 8.3.4, as the case may be, notify in writing the person submitting the Proposal of its intention to omit the Proposal from the Trust's information circular and of the reasons for the refusal.
- 8.3.12 On the application of a Person submitting a Proposal who claims to be aggrieved by the Trust's refusal under section 8.3.8, a court may order the inclusion of the Proposal in the information circular delivered in connection with the Trust's annual meeting if such order is granted 30 days prior to the meeting or its inclusion in the information circular to be delivered in connection with the Trust's next subsequent annual meeting if such order is granted less than 30 days prior to the annual meeting and make any further order it thinks fit.
- 8.3.13 The Trust or any Person claiming to be aggrieved by a Proposal may apply to a court for an order permitting the Trust to omit the Proposal from the information circular, and the court, if it is satisfied that subsection 8.3.8 applies, may make such order as it thinks fit.

#### 8.4 Notice of Meeting of Unitholders

Notice of all meetings of the Unitholders shall be mailed or delivered by the Trustees to each Unitholder entitled to vote at a meeting of the Unitholders at his address appearing in the Register, to each Trustee and to the auditors of the Trust not less than 21 nor more than 60 days before the meeting, provided that a notice of meeting is not required to be sent to Unitholders who were not registered on the records of the Trust or its transfer agent on the record date for the meeting, but failure to receive notice does not deprive a Unitholder of the right to vote at the meeting. Notice of any meeting of the Unitholders shall state the purposes of the meeting and if a meeting is to take place through a communication facility by which Unitholders and proxyholders may be deemed to be present in Person, the means to access such communication facility and vote at such meeting. If a meeting is postponed or adjourned for less than thirty days it is not necessary to give notice of the postponed or adjourned meeting, other than by announcement at the earliest meeting that is postponed or adjourned. If a meeting of Unitholders is postponed or adjourned by one or more postponements or adjournments for an aggregate of thirty days or more, notice of the postponed or adjourned meeting shall be given as for an original meeting.

The business transacted at an annual meeting of Unitholders shall include the presentation of the audited financial statements of the Trust for the immediately preceding fiscal year, the appointment and election of the Trustees for the ensuing year, re-appointment of the incumbent auditor and the transaction of such other business as Unitholders may be entitled to vote upon as hereinafter provided in this Article 8 or as the Trustees may determine. Notice of a meeting of Unitholders at which special business is to be transacted shall state (i) the nature of the business in sufficient detail to permit a Unitholder to form a reasonable judgment thereon; and (ii) the text of any special resolution (or a summary thereof) to be submitted to the meeting.

#### 8.5 Quorum; Chairman

A quorum for any meeting of Unitholders shall be individuals present not being less than two in number and being ~~Unitholders or Special~~ Unitholders or representing by proxy Unitholders ~~or Special Unitholders~~ who hold in the aggregate not less than 25% of the total number of outstanding Units entitled to vote at ~~a~~ such meeting of the Unitholders ~~and Special Voting Units~~. The Chairman, or any Trustee determined by the Trustees, shall be the chairman of any meeting of the Unitholders. If quorum is present at the opening of a meeting of Unitholders, the ~~Unitholders and Special~~ Unitholders present may proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting. If quorum is not present at the opening of a meeting of Unitholders, the chairman or the ~~Unitholders and Special~~ Unitholders present may adjourn the meeting to a fixed time and place, if any, but may not transact any business.

#### 8.6 Voting

Holders of ~~Units and/or Special Voting~~ Units entitled to vote at a meeting of the Unitholders ~~and Special Unitholders~~ may attend and vote at all meetings of the Unitholders (and, only in the case of holders of Special Voting Units, all meetings of the Special Unitholders) either personally or by proxy. Subject to the provisions of section ~~8.7~~ 8.7.3, each Unitholder of Units (other than Special Voting Units) entitled to vote at a meeting of the Unitholders ~~and each Special Voting Unit~~ shall be entitled to one vote for each Unit held by such holder at all meetings of the Unitholders ~~and~~ (other than meetings of the Special Unitholders, provided that notwithstanding the foregoing or anything else herein contained, any). Subject to the provisions of section 8.7.3, each holder of Special Voting Units entitled to vote at a meeting of the Unitholders or Special Unitholders, as applicable, shall be entitled to such number of votes at such meeting as determined in accordance with section 6.1.3. Any action to be taken by the Unitholders ~~and~~ or the Special Unitholders, as applicable, shall, except as otherwise required by this Declaration of Trust or by law, be authorized when approved by a majority of the votes cast at a meeting of the Unitholders ~~and~~ or the Special Unitholders, as applicable, or by written resolution in accordance with section 8.16. The chairman of any such meeting shall not have a second or casting vote.

## 8.7 Matters on which Unitholders Shall Vote

~~None~~ Subject to section 8.7.3, none of the following shall occur unless the same has been duly approved by the Unitholders entitled to vote at a meeting of Unitholders duly called and held for such purpose or by written resolution in accordance with section 8.16:

- 8.7.1 except as provided in sections 3.1, 3.6, 3.8 and 3.12, the appointment, election or removal of Trustees;
- 8.7.2 except as provided in section 16.4, the appointment or removal of auditors of the Trust;
- 8.7.3 any amendment to the Declaration of Trust (except as provided in section 5.5 or section 13.1, provided that Special Unitholders shall not be entitled to vote the Special Voting Units on any amendment which directly or indirectly adds, removes or changes any of the rights, privileges, restrictions and conditions in respect of the Units and further provided that any amendment which directly or indirectly adds, removes or changes any of the rights, privileges, restrictions and conditions in respect of the Special Voting Units cannot occur without the consent of the holders of a majority of the Special Voting Units);
- 8.7.4 an increase or decrease ~~into~~ the number of Trustees pursuant to the second sentence of section 3.1; provided, however, that Unitholder approval shall not be required for the appointment by the Trustees of additional Trustees between meetings of Unitholders as permitted by the second sentence of section 3.1 or the appointment by the MG Entities of additional Trustees pursuant to section 3.12;
- 8.7.5 the sale or transfer of the assets of the Trust as an entirety or substantially as an entirety (other than as a part of an internal reorganization of the assets of the Trust as approved by the Trustees); or
- 8.7.6 the distribution pursuant to section 14.3 of all the Trust Property.

Except with respect to the foregoing matters specified in this section 8.7 or matters submitted to a vote of the Unitholders by the Trustees, no vote of the Unitholders shall in any way bind the Trustees. In particular, under no circumstances may Unitholders authorize the forgiveness of the obligation of holders of any instalment receipts to pay amounts owing thereunder in respect of Units represented by such instalment receipts. Nothing in this section, however, shall prevent the Trustees from submitting to a vote of Unitholders any matter which they deem appropriate.

## 8.8 Units Held by the Trust

- 8.8.1 If the Trust holds any Units ~~or Special Voting Units~~, the Trust shall not vote or permit those Units ~~or Special Voting Units~~ to be voted unless:
  - 8.8.1.1 the Trust holds the ~~Units or Special Voting~~ Units for the benefit of the beneficial owner;
  - 8.8.1.2 the Trust, without delay following the filing or receipt by the Trust, as applicable, of the notice of the meeting, financial statements, management proxy circular, dissident's proxy circular and any other documents (other than the form of proxy) sent to registered Unitholders entitled to vote at the applicable meeting by or on behalf of any person for use in connection with the applicable meeting, sends a copy of the document to the beneficial owner of the Units ~~or Special Voting Units~~ and, except where the Trust has received written voting instructions from the beneficial owner of the Units ~~or Special Voting Units~~, a written request for such instructions; and
  - 8.8.1.3 the Trust receives written voting instructions from the beneficial owner of the Units ~~or Special Voting Units~~;

in which case the Trust shall vote, or appoint a proxyholder to vote, any such ~~Units or Special Voting~~ Units in accordance with any written voting instructions received from the beneficial owner thereof.

- 8.8.2 A ~~Unitholder or Special~~ Unitholder by or on behalf of whom a solicitation is made shall provide, at the request of the Trust, without delay, to the Trust at the Unitholder's ~~or Special Unitholder's~~ expense the necessary number of copies of the documents referred to in section 8.8.1, other than copies of the document requesting voting instructions.
- 8.8.3 If a beneficial owner of ~~Units or Special Voting~~ Units held by the Trust so requests and provides the Trust with appropriate documentation, the Trust must appoint the beneficial owner or a nominee of the beneficial owner as proxyholder.
- 8.8.4 The Trust, the Trustees, the ~~Unitholders and the Special~~ Unitholders agree that the failure of the Trust to comply with this section does not render void any meeting of Unitholders or any action taken at the meeting.
- 8.8.5 Nothing in this section gives the Trust the right to vote ~~Units or Special Voting~~ Units that the Trust is otherwise prohibited from voting.
- 8.8.6 The Trust shall not permit any of its subsidiaries holding ~~Units or Special Voting~~ Units to vote, or permit those Units ~~or Special Voting Units~~ to be voted, unless the subsidiary satisfies the requirements of section 8.8.1.

## 8.9 Record Dates

For the purpose of determining the Unitholders who are entitled to receive notice of and vote at any meeting or any adjournment thereof, or who are entitled to receive any distribution, or for the purpose of any other action, the Trustees may from time to time, without notice to Unitholders, close the transfer books for such period, not exceeding 30 days, as the Trustees may determine; or with or without closing the transfer books the Trustees may fix a date not more than 60 days prior to the date of any meeting of the Unitholders or distribution or other action as a record date for the determination of Unitholders entitled to receive notice of and to vote at such meeting or any adjournment thereof or to receive such distribution or to be treated as Unitholders of record for purposes of such other action, as the case may be, and any Unitholder who was a Unitholder at the time so fixed shall be entitled to receive notice of and vote at such meeting or any adjournment thereof or to receive such distribution, even though he has since that date disposed of his or her Units, and no Unitholder becoming such after that date shall be entitled to receive notice of and vote at such meeting or any adjournment thereof or to receive such distribution or to be treated as a Unitholder of record for purposes of such other action.

## 8.10 Proxies

- 8.10.1 Whenever the vote or consent of Unitholders is required or permitted under this Declaration of Trust, such vote or consent may be given either directly by the ~~Unitholder or Special~~ Unitholder or by a proxy. The instrument appointing a proxy must be in writing and either substantially in a form which may be approved by the Trustees acting reasonably or as may be satisfactory to the chairman of the meeting at which it is sought to be exercised. The instrument of proxy must be executed, or in Quebec, signed by the Unitholder giving the proxy or by his or her agent duly authorized in writing and, if given on behalf of joint holders, must be executed by all of them and may be revoked by any of them, and, if given by a ~~Unitholder or Special~~ Unitholder which is a body corporate, must be executed or, in Quebec, signed on its behalf by a person duly authorized in writing. A proxy need not be a Unitholder ~~or Special Unitholder~~. The Trustees may solicit such proxies from the Unitholders, ~~Special Unitholders or any of them~~ in any matter requiring or permitting the Unitholders' ~~or Special Unitholders'~~ vote, approval or consent. The Trustees may specify in a notice calling a meeting of Unitholders a time not exceeding forty-eight hours, excluding Saturdays, Sundays and holidays, before the meeting or postponement or adjournment before which time proxies to be used at the meeting must be deposited with the Trust or its agent

or mandatory in order to be voted at the meeting, provided that the Trustees may, in their discretion, waive such deadline. In any event, no proxy shall be voted at any meeting unless it shall have been received by the Trust or its agent or mandatory prior to the commencement of the meeting. A proxy is valid only at the meeting in respect of which it is given or any postponement or adjournment thereof.

8.10.2 A ~~Unitholder or Special~~ Unitholder may revoke a proxy:

8.10.2.1 by depositing an instrument or act in writing executed or, in Quebec, signed by the ~~Unitholder or Special~~ Unitholder or by the Unitholder's ~~or Special Unitholder's~~ personal representative authorized in writing:

8.10.2.1.1 at the principal office of the Trust at any time up to and including the last business day preceding the day of the meeting, or a postponement or adjournment thereof, at which the proxy is to be used;

8.10.2.1.2 with the chairman of the meeting on the day of the meeting or any postponement or adjournment thereof; or

8.10.2.1.3 in any other manner permitted by law.

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

## 8.11 Personal Representatives

If a Unitholder is deceased, his or her personal representative, upon filing with the secretary of the meeting such proof of his or her appointment as the secretary considers sufficient, shall be entitled to exercise the same voting rights at any meeting of Unitholders as the Unitholder would have been entitled to exercise if he or she were living and for the purpose of the meeting shall be considered to be a Unitholder. Subject to the provisions of the will of a deceased Unitholder, if there is more than one personal representative, the provisions of section 6.20 relating to joint holders shall apply.

## 8.12 Attendance by Others

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

## 8.13 Conduct of Meeting

To the extent that the rules and procedures for the conduct of a meeting of Unitholders are not prescribed herein, the rules and procedures shall be such reasonable rules and procedures as are determined by the chairman of the meeting and such rules and procedures shall be binding upon all parties participating in the meeting

## 8.14 Binding Effect of Resolutions

Every resolution passed at a meeting in accordance with the provisions of this Article 8 shall be binding upon all Unitholders, whether present at or absent from the meeting. Subject to section 8.7, no action taken by Unitholders at any meeting of Unitholders shall in any way bind the Trust or Trustees without the approval of the Trustees.

### **8.15 Actions by Unitholders**

Any action, change, approval, decision or determination required or permitted to be taken or made by the Unitholders hereunder shall be effected by a resolution passed by the Unitholders at a duly constituted meeting (or a special resolution in lieu thereof) in accordance with this Article 8.

### **8.16 Resolution in Lieu of Meeting**

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

### **8.17 Interpretation of Units and Unitholders**

For greater certainty, for the purposes of this Article 8, and any defined terms used herein, unless expressly specified to the contrary, references to: (i) Units shall be deemed to include Special Voting Units; and (ii) Unitholders shall be deemed to include Special Unitholders.

## **ARTICLE 9 MEETINGS OF TRUSTEES**

### **9.1 Trustees May Act Without Meeting**

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

### **9.2 Notice of Meeting**

Meetings of the Trustees may be held from time to time upon the giving of notice by any Trustee. Regular meetings of the Trustees may be held without call or notice at a time and place fixed by the Trustees' Regulations. Notice of the time and place of any other meetings shall be mailed or otherwise given not less than 48 hours before the meeting but may be waived in writing by any Trustee either before or after such meeting. The attendance of a Trustee at a meeting shall constitute a waiver of notice of such meeting except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened. Each committee of Trustees appointed by the Trustees may adopt its own rules or procedures for the calling, conduct, adjournment and regulation of the meetings of such committees as it sees fit and may amend or repeal such rules or procedures from time to time; provided, however, that the Trustees' Regulations and any such rules or procedures shall not be inconsistent with this Declaration of Trust.

### **9.3 Quorum**

A quorum for all meetings of the Trustees or any committee thereof shall be at least a majority of the Trustees or of the Trustees on such committee, as the case may be, present in Person, provided that if there is no quorum, the meeting may be adjourned to another business day on notice to all of the Trustees or members of such committee, as the case may be, and, at the reconvened meeting, the presence of two-fifths of the Trustees or members of such committee, as the case may be, is required in order to constitute a quorum.

### **9.4 Voting at Meetings**

Questions arising at any meeting of the Trustees shall be decided by a majority of the votes cast. In the case of an equality of votes, the chairman of the meeting, who shall be the Chairman if present, shall not have a second or casting vote in addition to his or her original vote, if any.



## ARTICLE 11 DISTRIBUTIONS

### 11.1 Distributions

The Trust shall pay or declare payable to holders of Units monthly, and the holders of Units will have a right to receive, on each Distribution Date a pro rata share of such portion of the revenue of the Trust for the preceding calendar month then ended as the Trustees determine to distribute to the holders of Units. Distributions shall be made in cash or Units pursuant to any distribution reinvestment plan or distribution reinvestment and Unit purchase plan adopted by the Trustees pursuant to section 11.6. Any distribution shall be made proportionately to Persons who are holders of Units as at the close of business on the record date for such distribution which shall be the last business day of the calendar month preceding the month in which the Distribution Date falls, or if such date is not a business day then the next following business day, or such other date, if any, as is fixed in accordance with section 8.9. The Trustees, if they so determine when income has been accrued but not collected may, on a temporary basis, transfer sufficient moneys from the capital to the income account of the Trust to permit distributions under this section 11.1 to be effected.

### 11.2 Allocation

Income and net taxable capital gains for purposes of the *Income Tax Act* will be allocated to Unitholders in the same proportions as distributions received by Unitholders.

### 11.3 Payment of Distributions

Distributions shall be made by cheque payable to or to the order of the Unitholder or by such other manner of payment approved by the Trustees from time to time. The payment, if made by cheque, shall be conclusively deemed to have been made upon hand-delivery of a cheque to the Unitholder or to his or her agent duly authorized in writing or upon the mailing of a cheque by prepaid first-class mail addressed to the Unitholder at his or her address as it appears on the Register unless the cheque is not paid on presentation. The Trustees may issue a replacement cheque if they are satisfied that the original cheque has not been received or has been lost or destroyed upon being furnished with such evidence of loss, indemnity or other document in connection therewith that they may in their discretion consider necessary.

### 11.4 Income Tax Matters

In reporting income for income tax purposes the Trust shall claim, and shall cause any partnership controlled by the Trust to claim, the maximum amount available to it as deductions under the relevant law, including but not limited to maximum capital cost allowance, unless the Trustees determine otherwise; ~~provided, however, that for purposes of determining the income of the Trust for purposes of the *Income Tax Act* as contemplated by clause (ii) of section 11.1, the income shall be computed on the basis of the Trust claiming the maximum amount available to it as deductions under the *Income Tax Act* (but without reference to section 104(6) of the *Income Tax Act*), including, but not limited to, maximum capital cost allowance, unless the Trustees determine otherwise prior to the end of the relevant taxation year.~~

### 11.5 Designations

The Trustees shall make such designations, determinations and allocations for income tax purposes in respect of amounts paid or payable to Unitholders for such amounts that the Trustees consider to be reasonable, including, without limitation, designations relating to taxable dividends received by the Trust in the year on shares of taxable Canadian corporations, net taxable capital gains of the Trust in the year, and foreign source income of the Trust for the year, as well as elect under subsections 104(13.1) and (13.2) of the *Income Tax Act* that income be taxed to the Trust, rather than to such Unitholder.

### 11.6 Distribution Reinvestment and Unit Purchase Plan

Subject to any required regulatory approvals, the Trustees may in their sole discretion establish one or more distribution reinvestment plans, distribution reinvestment and Unit purchase plans or Unit option plans at any time and from time to time.

### 11.7 Withholding Taxes

The Trustees may deduct or withhold from the distributions payable to any Unitholder amounts required by law to be withheld from such Unitholder's distributions.

## ARTICLE 12 FEES AND EXPENSES

### 12.1 Expenses

The Trust shall pay all expenses incurred in connection with the administration and management of the Trust and its investments, including without limitation fees of auditors, lawyers, appraisers, registrars and transfer agents and other agents, stock exchanges, consultants and professional advisors employed by or on behalf of the Trust and the cost of reporting or giving notices to [Unitholders or Special Unitholders](#).

### 12.2 Payment of Real Property and Brokerage Commissions

The Trust may pay Real Property and brokerage commissions at commercial rates in respect of the acquisition and disposition of any investment acquired or disposed of by it. Such commissions may be paid to a property manager or to others.

### 12.3 Property Management, Leasing and Financing Fees

The Trust may pay property management fees, leasing fees and financing fees in respect of any Real Property owned by it. Such fees may be paid to a property manager or to others.

## ARTICLE 13 AMENDMENTS TO THE DECLARATION OF TRUST

### 13.1 Amendments by the Trustees

The Trustees may, without the approval of or any notice to Unitholders, make amendments to this Declaration of Trust:

13.1.1 for the purpose of ensuring continuing compliance with applicable laws, regulations, requirements or policies of any governmental authority having jurisdiction over the Trustees or over the Trust, including respecting its status as a “**unit trust**” a “**mutual fund trust**” and a “**registered investment**” under the *Income Tax Act* or the distribution of its Units;

13.1.2 which, in the opinion of the Trustees, provide additional protection for or benefit to the Unitholders [\(provided it is not prejudicial to either the Unitholders or the Special Unitholders, considered in each case as a class\)](#);

13.1.3 to remove any conflicts or inconsistencies in the Declaration of Trust or to make minor corrections which are, in the opinion of the Trustees, necessary or desirable and not prejudicial to [either](#) the Unitholders [or the Special Unitholders, considered in each case as a class](#);

13.1.4 which, in the opinion of the Trustees, are necessary or desirable as a result of changes in taxation laws from time to time, including, without limiting the generality of the foregoing, amendments which may affect the Trust, the Unitholders or Annuitants under a plan of which a Unitholder acts

as trustee or carrier or which may permit the Trust to qualify for any status under the *Income Tax Act* which would benefit the Trust or the Unitholders;

13.1.5 for any purpose (except one in respect of which a Unitholder vote or Special Unitholder vote or consent, as applicable, is specifically otherwise required), if the Trustees are of the opinion that the amendment is not prejudicial to ~~Unitholders~~either the Unitholders or the Special Unitholders, considered in each case as a class, and is necessary or desirable; and

13.1.6 which, in the opinion of the Trustees, are necessary or desirable to enable the Trust to issue Units for which the purchase price is payable on an instalment basis.

## 13.2 Amendments by Unitholders

Subject to sections 8.7, 13.1, 13.3 and 13.4, this Declaration of Trust may be amended by the affirmative vote of a majority of the votes cast at a meeting of Unitholders called for that purpose.

## 13.3 Two-Thirds Unitholder Vote

Subject to section 8.7.3, none of the following shall occur unless the same has been duly approved by the affirmative vote of at least two-thirds of the votes ~~of Unitholders entitled to vote~~ cast at a meeting of Unitholders duly called and held:

13.3.1 any amendment to this section 13.3;

13.3.2 any amendment to change a right with respect to any outstanding Units of the Trust to reduce the amount payable thereon upon termination of the Trust or to diminish or eliminate any voting rights pertaining thereto;

13.3.3 any amendment to the duration or term of the Trust;

13.3.4 any amendment relating to the powers, duties, obligations, liabilities or indemnification of the Trustees;

13.3.5 any sale or transfer of the assets of the Trust as an entirety or substantially as an entirety (other than as part of an internal reorganization of the Assets of the Trust as approved by the Trustees);

13.3.6 any amendment to sections 5.1 and 5.2 except for any amendment contemplated by section 13.1; or

13.3.7 any approval pursuant to section 8.7.6 or 14.2;

13.3.8 any amendments to sections 3.12, 6.1.5, 10.3 or 10.4, provided the written consent of the MG Entities Representative is first obtained in respect of such amendment;

13.3.9 any amendment to section 6.27;

13.3.10 the combination, amalgamation, merger or arrangement of the Trust or any of its subsidiaries with or into any other Person, other than an internal reorganization involving the Trust and/or one or more of its subsidiaries; or

13.3.11 an exchange, reclassification or cancellation of all or part of the Units or Special Voting Units or any addition, change or removal of the rights, privileges, restrictions and conditions in respect to the Units or Special Voting Units;

except for any amendment contemplated by section ~~5.3 or section~~ 13.1.

#### **13.4 Trustees to Sign Amendment**

When a vote of the Unitholders approves an amendment to this Declaration of Trust which, pursuant to the provisions of this Declaration of Trust, binds the Trustees to make such amendment, the Trustees shall sign such documents as may be necessary to effect such amendment.

#### **13.5 Interpretation of Units and Unitholders**

For greater certainty, for the purposes of this Article 13, and any defined terms used herein, unless expressly specified to the contrary, references to: (i) Units shall be deemed to include Special Voting Units; and (ii) Unitholders shall be deemed to include Special Unitholders.

### **ARTICLE 14 TERMINATION OF THE TRUST**

#### **14.1 Term of the Trust**

Unless the Trust is sooner terminated as otherwise provided herein, the Trust shall continue in full force and effect so long as any property of the Trust is held by the Trustees and the Trustees shall have all the powers and discretions, expressed and implied, conferred upon them by law or by this Declaration of Trust.

#### **14.2 Termination by Unitholders and Special Unitholders**

The Trust may be terminated by a vote of at least two-thirds of the votes in aggregate cast at a meeting of Unitholders and Special Unitholders called for that purpose by holders of Units and Special Voting Units entitled to vote thereon.

#### **14.3 Effect of Termination**

Upon the termination of the Trust or the affirmative vote referred to in section 14.2, the liabilities of the Trust shall be discharged with due speed and the net assets of the Trust shall be liquidated and the proceeds distributed proportionately to the holders of the Units. Such distribution may be made in cash or in kind or partly in each, all as the Trustees in their sole discretion may determine.

### **ARTICLE 15 LIABILITIES OF THE TRUSTEES AND OTHERS**

#### **15.1 Liability and Indemnification of the Trustees**

The Trustees shall at all times be indemnified and saved harmless out of the property of the Trust from and against all liabilities, damages, losses, debts, claims, actions, suits and proceedings whatsoever, including costs, charges and expenses in connection therewith, sustained, incurred, brought, commenced or prosecuted against them for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of their duties as Trustees and also from and against all other liabilities, damages, losses, debts, claims, costs, charges and expenses which they sustain or incur in or about or in relation to the affairs of the Trust. Further, the Trustees shall not be liable to the Trust or to any Unitholder or an Annuitant for any loss or damages relating to any matter regarding the Trust, including any loss or diminution in the value of the Trust or its assets. The foregoing provisions of this section 15.1 in favour of any Trustee do not apply unless:

15.1.1 the Trustee acted honestly and in good faith with a view to the best interests of the Trust and the Unitholders; and

15.1.2 in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the Trustee had reasonable grounds for believing his or her conduct was lawful.

foregoing obligations or their failure to perform the same shall be governed by the provisions of sections 15.1, 15.2 and 15.3.

### **15.5 Interpretation of Units and Unitholders**

For greater certainty, for the purposes of this Article 15, and any defined terms used herein, unless expressly specified to the contrary, references to: (i) Units shall be deemed to include Special Voting Units; and (ii) Unitholders shall be deemed to include Special Unitholders.

## **ARTICLE 16 GENERAL**

### **16.1 Execution of Instruments**

The Trustees shall have power from time to time to appoint any Trustee or Trustees or any Person or Persons on behalf of the Trust either to sign instruments in writing generally or to sign specific instruments in writing. Provisions respecting the foregoing may be contained in the Trustees' Regulations.

### **16.2 Manner of Giving Notice**

Any notice required or permitted by the provisions of this Declaration of Trust to be given to a Unitholder, a Trustee or the auditors of the Trust shall be deemed conclusively to have been given if given either by hand delivery or by prepaid first-class mail addressed to the Unitholder at his or her address shown on the Register, to the Trustee at the last address provided by such Trustee to the Secretary of the Trust, or to the auditors of the Trust at the last address provided by such auditors to the Secretary of the Trust, as the case may be, provided that if there is a general discontinuance of postal service due to strike, lockout or otherwise, such notice may be given by publication twice in the Report on Business section of the National Edition of The Globe and Mail or a similar section of any other newspaper having national circulation in Canada; provided further that if there is no such newspaper having national circulation, then by publishing twice in the business section of a newspaper in the city where the Register is maintained. Any notice so given shall be deemed to have been given on the day of hand delivery or the day following that on which the notice was mailed or, in the case of notice being given by publication, after publishing such notice twice in the designated newspaper or newspapers. In proving notice was mailed, it shall be sufficient to prove that such notice was properly addressed, stamped and mailed. Notice to any one of several joint holders of Units shall be deemed effective notice to the other joint holders. Any notice sent by mail to or left at the address of a Unitholder pursuant to this section shall, notwithstanding the death or bankruptcy of such Unitholder, and whether or not the Trustees have notice of such death or bankruptcy, be deemed to have been fully given and shall be deemed sufficient notice to all Persons having an interest in the Units concerned.

### **16.3 Failure to Give Notice**

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

### **16.4 Trust Auditors**

The auditors of the Trust shall be appointed at each annual meeting by a majority of the votes cast by ~~Unitholders and Special~~ Unitholders present in person or by proxy at the meeting. If at any time a vacancy occurs in the position of auditors of the Trust, the Trustees may appoint a firm of chartered accountants qualified to practice in all provinces of Canada to act as the auditors of the Trust until the next annual meeting of Unitholders. The remuneration of the auditors shall be fixed by approval of a majority of the votes cast by Unitholders ~~and Special Unitholders~~ at a meeting of Unitholders duly called for that purpose, or if not fixed by the ~~Unitholders and Special~~ Unitholders, may be fixed by the Trustees. The auditors of the Trust shall report to the Trustees and the Unitholders on the annual financial statements of the Trust and

shall fulfil such other responsibilities as they may properly be called upon by the Trustees to assume. The auditors shall have access to all records relating to the affairs of the Trust.

**16.5 Fiscal Year**

The fiscal year of the Trust shall terminate on December 31 in each year.

**16.6 Reports to Unitholders**

To the extent requested, the Trustees shall send to Unitholders (i) for each completed fiscal year of the Trust, a report, including audited comparative financial statements for the year, as required by and prepared in compliance with applicable securities regulations; and (ii) for each of the first three quarters of each year, a report, including unaudited comparative financial statements for the period then ended, as required by and prepared in compliance with applicable securities regulations. The Trustees will supply Unitholders with any information that may be required by them in connection with their obligations under the *Income Tax Act* and equivalent provincial legislation.

**16.7 Trust Property to be Kept Separate**

The Trustees shall maintain the property of the Trust separate from all other property in their possession.

**16.8 Trustees May Hold Units**

Any Trustee or associate of a Trustee may be a ~~Unitholder or Special~~ Unitholder or may be an Annuitant.

**16.9 Income Tax: Obligations of the Trustees**

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

**16.10 Day not a Business Day**

In the event that any day on which any amount is to be determined or any action is required to be taken hereunder is not a Business Day, then such amount shall be determined or such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day. This section is not applicable to any distributions which are to be made hereunder on December 31.

**16.11 Income Tax: Elections**

In respect of the first taxation year of the Trust, the Trust shall, within the time prescribed, elect pursuant to subsection 132(6)(6.1) and/or (6.2) as the relevant case may be, of the *Income Tax Act* (as same may be amended) that the Trust be deemed to be a mutual fund trust for the entire year.

The Trust shall also apply to be a registered investment for the purposes of the *Income Tax Act* in accordance with section 204.4 thereof such that the Trust shall be a “registered investment”.

**16.12 Trust Records**

16.12.1 The Trustees shall prepare and maintain, at the head office of the Trust or at any other place in Canada designated by the Trustees, records containing:

16.12.1.1 this Declaration of Trust and any amendments thereto;

16.12.1.2 minutes of meetings and resolutions of Unitholders; and

16.12.1.3 a securities register which records the Units, Special Voting Units and any other securities issued by the Trust in registered form, showing with respect to each class of securities:

16.12.1.3.1 the names, alphabetically arranged, and the latest known address of each Person who is or has been a securityholder;

16.12.1.3.2 the number of securities held by each securityholder; and

16.12.1.3.3 the date and particular of the issue and transfer of each security.

16.12.2 The Trust shall also prepare and maintain adequate accounting records and records containing minutes of meetings and resolutions of the Trustees and any committee thereof. Such records shall be kept at the head office of the Trust or at such other place as the Trustees think fit and shall at all reasonable times be open to inspection by the Trustees.

### 16.13 Right to Inspect Documents

A Unitholder, other securityholder of the Trust and any agent, consultant or creditor of the Trust shall have the right to examine the records described in subsection 16.12.1, the Trustees' Regulations and any other documents or records which the Trustees determine should be available for inspection by such Persons, during normal business hours at the head office of the Trust, and take extracts from the records, free of charge; provided that any such Person who wishes to examine the securities register of the Trust must first make a request to the Trust or its agent or mandatory, accompanied by an affidavit referred to in section 16.14.6. On receipt of the affidavit, the Trust or its agent or mandatory shall allow the applicant access to the securities register during the normal business hours, and, on payment of a reasonable fee, provide the applicant with an extract from the securities register.

### 16.14 Information Available to Unitholders

16.14.1 Each Unitholder and other securityholders of the Trust and their respective personal representatives, on payment of a reasonable fee therefor and on sending the Trust or its agent or mandatory an affidavit required by section 16.14.6, may on application require the Trust or its agent or mandatory to provide within 10 days after receipt of the affidavit a list (in this section referred to as the "basic list") made up to a date not more than 10 days before the receipt of the affidavit setting out the names of the Unitholders ~~and Special Unitholders~~, the number of Units ~~and Special Voting Units~~ held by each Unitholder ~~and Special Unitholder, respectively~~, and the address of each Unitholder ~~and Special Unitholder~~ as shown in the records of the Trust.

16.14.2 A person requiring the Trust to provide a basic list may, by stating in the affidavit referred to in subsection 16.14.1 that they require supplemental lists, require the Trust or its agent or mandatory on payment of a reasonable fee to provide supplemental lists setting out any changes from the basic list in the names or addresses of the Unitholders ~~and Special Unitholder~~ and the number of Units ~~and Special Voting Units~~ owned by each Unitholder ~~and Special Unitholder, respectively~~, for each Business Day following the date the basic list is made up to.

16.14.3 The Trust or its agent or mandatory shall provide a supplemental list required under subsection 16.14.2:

16.14.3.1 on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and

16.14.3.2 on the Business Day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

16.14.4 A person requiring the Trust to furnish a basic list or a supplemental list may also require the Trust to include in that list the name and address of any known holder of an option or right to acquire ~~Units or Special Voting~~ Units.

16.14.5 A list of Unitholders ~~or Special Unitholders~~ or information from a securities register obtained pursuant to the provisions of this Declaration of Trust shall not be used by any person except in connection with:

16.14.5.1 an effort to influence the voting of Unitholders ~~and Special Unitholders~~;

16.14.5.2 an offer to acquire securities of the Trust; or

16.14.5.3 any other matter relating to the affairs of the Trust.

16.14.6 An affidavit required under this section 16.14 or section 16.13 shall state:

16.14.6.1 the name and address of the applicant;

16.14.6.2 the name and address for service of the body corporate, if the applicant is a body corporate; and

16.14.6.3 that the information contained in the securities register obtained pursuant to this section 16.14 or section 16.13, as the case may be, will not be used except as permitted under subsection 16.14.5.

#### **16.15 Execution and Effect of Restated Declaration of Trust**

Subject to Article 13, a restated Declaration of Trust, setting forth the terms of this Declaration of Trust, as amended to the time of execution, may be executed at any time or from time to time by the Trustees and such restated Declaration of Trust as so executed shall thereafter be effective and may thereafter be referred to in lieu of the original Declaration of Trust as so amended; provided, however, that no such execution of a restated Declaration of Trust shall be deemed to constitute a termination of the Trust or this Declaration of Trust.

#### **16.16 Consolidations**

Any one or more Trustees or the Secretary may prepare consolidated copies of the Declaration of Trust as it may from time to time be amended or amended and restated and may certify the same to be a true consolidated copy of the Declaration of Trust, as amended or amended and restated.

#### **16.17 Counterparts**

This Declaration of Trust may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

#### **16.18 Severability**

The provisions of this Declaration of Trust are severable and if any provisions are in conflict with any applicable law, the conflicting provisions shall be deemed never to have constituted a part of the Declaration of Trust and shall not affect or impair any of the remaining provisions thereof. If any provision of this Declaration of Trust shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction or any other provision of this Declaration of Trust in any jurisdiction.



#### **16.19 Headings for Reference Only and Preamble**

The headings preceding the articles and sections hereof have been inserted for convenience and reference only and shall not be construed to affect the meaning, construction or effect of this Declaration of Trust. The preamble and recitals hereto (and all definitions therein contained) shall form an integral part of this Declaration of Trust.

#### **16.20 Successors and Assigns**

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

#### **16.21 Time of the Essence**

Time shall be of the essence of this Declaration of Trust. The mere lapse of time in the performance of the terms of this Declaration of Trust by any Person shall have the effect of putting such Person in default.

#### **16.22 Language**

The parties acknowledge that they have requested that this agreement and all documents, notices, correspondence and legal proceedings arising from this agreement or relating hereto be drawn up in English.

#### **16.23 Governing Law**

This Declaration of Trust shall be interpreted and governed by and take effect exclusively in accordance with the laws of the Province of Alberta. Any and all disputes arising under this Declaration of Trust, whether as to interpretation, performance or otherwise, shall be subject to the exclusive jurisdiction of the courts of the Province of Alberta and each of the Trustees hereby irrevocably attorns, and each Unitholder shall be deemed to hereby irrevocably attorn, to the exclusive jurisdiction of the courts of such province.

#### **16.24 Applications to Court**

As the rights (including the right to apply to a court) and remedies set out in sections 8.1 and 8.3 of this Declaration of Trust are not statute-based, all references in this Declaration of Trust to Unitholder rights (or the rights of any other person) that may be enforced by the court or to remedies that may be granted by the court are subject to the court, in its discretion, accepting jurisdiction to consider and determine any proceeding commenced by an eligible Unitholder (or other eligible person as contemplated herein) applying to the court under such sections. Notwithstanding anything else contained herein, a Unitholder shall not apply for, nor shall it be entitled to enforce, any order which would result in the Trust not qualifying as a “unit trust” or as a “mutual fund trust” within the meaning of the *Income Tax Act* (Canada).

#### **16.25 Interpretation of Units and Unitholders**

For greater certainty, for the purposes of this Article 16, and any defined terms used herein, unless expressly specified to the contrary, references to: (i) Units shall be deemed to include Special Voting Units; and (ii) Unitholders shall be deemed to include Special Unitholders.

**SCHEDULE "E"**  
**EQUITY INCENTIVE PLAN**

(See Attached.)

**SMARTCENTRES REAL ESTATE INVESTMENT TRUST**

**EQUITY INCENTIVE PLAN**

# SMARTCENTRES REAL ESTATE INVESTMENT TRUST

## EQUITY INCENTIVE PLAN

### ARTICLE 1

#### PURPOSE

##### 1.1 Purpose

The purpose of this Equity Incentive Plan is to provide officers and key employees of SmartCentres Real Estate Investment Trust with the opportunity to acquire Performance Units of the Trust in order, among other objectives, to allow them to participate in the long-term success of the Trust and to promote a greater alignment of their interests with the interests of the Trust's unitholders.

### ARTICLE 2

#### INTERPRETATION

##### 2.1 Definitions

For purposes of the Plan:

- (a) “**Affiliate**” of any Person (in this definition, such Person being referred to as the “**Subject Person**”) means a Person which, directly or indirectly, is Controlled by the Subject Person, or Controls the Subject Person, or is Controlled by a Person which also Controls the Subject Person;
- (b) “**Applicable Withholding Taxes**” means any and all taxes and other source deductions or other amounts which the Trust or a Related Entity is required by law to withhold from any amounts to be paid or credited under the Plan;
- (c) “**Award**” means an award of Performance Units;
- (d) “**Award Date**” means a date on which Performance Units are awarded to a Participant in accordance with Section 4.1;
- (e) “**Award Notice**” means a notice to an Eligible Person containing such terms and conditions relating to an award of Performance Units as the Board may prescribe;
- (f) “**beneficial ownership**” by any person or group of any security shall be determined in accordance with National Instrument 62-104 – *Take-Over Bids and Issuer Bids* (including the deeming provision of Section 1.8 thereof);
- (g) “**Board**” means the board of trustees of the Trust;
- (h) “**business combination**” has the meaning set out in Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* (including any deeming or other interpretative provisions therein but without giving effect to the exception in subsection (e) of such definition) applied where necessary, mutatis mutandis, to the extent such business combination involves a trust or any other non-corporate Person;

- (i) “**Cash Units**” has the meaning set forth in Section 5.2(b);
  - (j) “**Cause**” means “cause” as defined in the Participant’s Service Agreement with the Trust or a Related Entity, or if such term is not defined or if the Participant has not entered into a Service Agreement with the Trust or a Related Entity, then as such term is defined by applicable law or, if not so defined, such term shall refer to circumstances where an employer can terminate an individual’s employment without notice or payment in lieu of notice;
  - (k) “**Change of Control**” means any of the following events:
    - (i) any acquisition by any Person or group (other than any MG Entities) (such person or group, an “**Acquiror**”) of beneficial ownership of, or control over, Voting Securities or Convertible Securities, as a result of which that Acquiror, together with its Affiliates or any other Person acting jointly or in concert with the Acquiror, beneficially own: (A) not less than 50% of the Voting Securities; or (B) securities which would entitle the holders thereof to cast not less than 50% of the votes which may be cast to elect Trustees of the Trust (a “**Control Acquisition**”);
    - (ii) Incumbent Trustees no longer constituting a majority of the Board (a “**Board Majority Change**”); or
    - (iii) (A) a combination, amalgamation, merger or arrangement of the Trust or any of its material subsidiaries with or into any other Person (other than an internal reorganization involving only the Trust and/or one or more of its subsidiaries) or any other business combination of the Trust; (B) any termination, or plan for the liquidation, of the Trust; or (C) any sale, transfer or disposition of all or substantially all of the assets of the Trust (including by way of a sale, transfer or disposition of the equity or assets of one or more its subsidiaries), (a “**Trust Reorganization**”) in each case if the MG Entities voted against, or, if not the subject of a Unitholder vote, did not provide written consent to, such Trust Reorganization; or
    - (iv) any determination by a majority of the Board that a Change of Control has occurred or is about to occur, and any such determination shall be binding and conclusive for all purposes of the Plan;
- A Change of Control shall be deemed to have occurred at 12:01 a.m. (Toronto time) on the earliest of (A) the day on which a Control Acquisition is consummated, (B) the day on which a Trust Reorganization is consummated, and (C) the day on which a Board Majority Change occurs;
- (l) “**Code**” means the U.S. Internal Revenue Code of 1986, as amended;
  - (m) “**Committee**” means the Corporate Governance and Compensation Committee of the Board or such other Committee of the Board as may be appointed by the Board to administer the Plan, provided, however, that if no Corporate Governance and Compensation Committee is in existence at any particular time and the Board has

not appointed another committee of the Board to administer the Plan, all references in the Plan to “Committee” shall at such time be references to the Board;

- (n) “**Convertible Securities**” means securities that are exchangeable for, or convertible into, or carries the right to acquire, in each case whether or not on conditions, Voting Securities of the Trust;
- (o) “**Declaration of Trust**” means the Trust’s Thirteenth Amended and Restated Declaration of Trust dated June 29, 2020, as the same may be amended or amended and restated from time to time;
- (p) “**Disabled**” and “**Disability**” mean the permanent and total incapacity of a Participant as determined by the Board for purposes of this Plan;
- (q) “**Distribution Equivalent**” means a bookkeeping entry whereby each Performance Unit is credited with the equivalent amount of the distribution made on a Unit in accordance with Section 4.4;
- (r) “**Distribution Market Value**” means, in respect of distributions made on the Units, the Market Value of the Units on the distribution date;
- (s) “**Eligible Person**” means an Employee;
- (t) “**Employee**” means a full-time employee or dependent contractor of the Trust or a Related Entity;
- (u) “**Going Private Transaction**” means a Change of Control pursuant to which all of the Unitholders of the Trust will receive, in exchange for all of their outstanding Units, consideration that consists only of (i) cash or (ii) securities or other property that is not publicly traded, and not intended to be publicly traded, immediately following the consummation of such transaction;
- (v) “**Hold Period**” means the period of twelve months from the Separation Date or the duration of any non-competition obligation of the Participant to the Trust or a Related Entity set out in the Participant’s Service Agreement if the duration of such obligation is longer than twelve months;
- (w) “**Incumbent Trustee**” means, as of any date of determination, any Trustee serving on the Board (i) who was a Trustee of the Trust on November 5, 2020, or (ii) any successor to an Incumbent Trustee who was (A) nominated for election or elected to succeed any Incumbent Trustee by the affirmative vote of the Board, including a majority of the Incumbent Trustees then on the Board immediately prior to such nomination or election, or (B) appointed by the MG Entities pursuant to the appointment rights set out in the Declaration of Trust;
- (x) “**insider**” means “insider” as defined in Part 1 of the TSX Company Manual;
- (y) “**Market Value**” at any date in respect of the Units means the volume weighted average price of all Units traded on the TSX (or, if such Units are not listed and posted for trading on the TSX, on such stock exchange on which such Units are

listed and posted for trading as may be selected for such purpose by the Board) for the ten trading days immediately preceding such date, provided that in the event that Units are not listed and posted for trading on any stock exchange, the Market Value shall be the fair market value of such Units as determined by the Board acting in good faith;

- (z) **“MG Entities”** has the meaning ascribed to such term in the Declaration of Trust;
- (aa) **“Misconduct”** means:
  - (i) fraud by the Participant (i) involving the Trust or any Related Entities; or (ii) in respect of the Participant’s employment;
  - (ii) a material and wilful breach of the terms and conditions of the Participant’s employment which is materially detrimental to the Trust or any Related Entities and which the Participant has failed to cure within 15 days of receiving written notice from the Trust or such Related Entity (which notice may be given whether or not the Participant is then still employed by the Trust or any of its Related Entities) specifying such breach;
  - (iii) a material and wilful breach of the provisions of any code of conduct or policy of the Trust or any Related Entities applicable to the Participant which is materially detrimental to the Trust or any Related Entities and which the Participant has failed to cure within 15 days of receiving written notice from the Trust (which notice may be given whether or not the Participant is then still employed by the Trust or any of its Related Entities) specifying such breach;
  - (iv) the conviction of the Participant for any crime involving fraud, misrepresentation or breach of trust which is likely to cause material harm to the Trust or any Related Entities; or
  - (v) gross negligence in the performance of the Participant’s duties which is materially detrimental to the Trust or any Related Entities;
- (bb) **“Participant”** means an Eligible Person who has been awarded Performance Units under the Plan. An individual who ceases to be an Eligible Person will continue to be a Participant under the Plan for so long as such individual continues to hold outstanding Performance Units in accordance with the Plan;
- (cc) **“Performance Measures”** means the set of performance objectives or metrics applicable to an Award, as determined by the Board and set forth in the Participant’s Award Notice. Schedule A hereto sets for the Performance Measures for Awards granted in respect of the January 1, 2021 through December 31, 2027 Performance Period. For clarity, the Board may grant Awards with a different set of Performance Measures than those specified in Schedule A hereto;
- (dd) **“Performance Period”** means the period specified in the Participant’s Award Notice. The first Performance Period for Awards granted hereunder shall be from

January 1, 2021 through December 31, 2027. For clarity, the Board may grant Awards with a different Performance Period;

- (ee) **“Performance Unit”** means, a bookkeeping entry, equivalent in value to a Unit credited on the books of the Trust in accordance with Article 4 and shall include any related Distribution Equivalents;
- (ff) **“Person”** means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, fund, organization or other group of organized persons, government, government regulatory authority, governmental department, agency, commission, board, tribunal, dispute settlement panel or body, bureau, court, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;
- (gg) **“Plan”** means this Equity Term Incentive Plan as amended, restated, supplemented or otherwise modified from time to time;
- (hh) **“Related Entity”** means a Person that is Controlled by or Controls the Trust or that is Controlled by the same Person that Controls the Trust;
- (ii) **“Retirement”**, with respect to any Participant, has the meaning set out in the Participant’s Service Agreement, or if there is no such agreement with the Participant or such term is not defined in such agreement, means the Participant’s resignation from employment with the Trust and its Related Entities where:
  - (i) the Participant has attained: (i) age sixty-five (65), or reaches age sixty (60) with at least 10 (ten) years of service, or fifty-five (55) with at least fifteen (15) years of service; or (ii) such lesser age and/or service thresholds as the Committee may determine in its discretion;
  - (ii) the Participant has given the Trust or the Related Entity employing the Participant formal notice of their intention to retire at least six (6) months in advance, or such lesser advance notice as the Committee may approve in its discretion;
  - (iii) for the duration of the Hold Period, the Participant does not become an employee, independent contractor, consultant, partner, director, trustee, investor in or lender to a business engaged in the business of owning, developing or managing retail properties, office space and/or residential properties in Canada (other than an investment of up to 2% of the listed securities of an entity listed on a stock exchange); provided that this clause (iii) shall not apply to Mitchell Goldhar; and
  - (iv) for the duration of the Hold Period, the Participant is not employed on a full-time basis for total annual cash compensation (consisting of base salary, commissions, and annual incentive compensation) calculated on an annualized basis in excess of 60% of the Participant’s actual total annual



cash compensation from the Trust or a Related Entity during the 12 months prior to retirement;

(jj) **“Separation Date”** means:

(i) in the case of a Participant who is not a U.S. Taxpayer:

(A) whose employment or service is terminated by the Trust or a Related Entity, the later of (A) the Participant’s last day of actual and active employment and (B) the last day of the minimum statutory notice period applicable to the Participant pursuant to applicable employment standards legislation, if any; or,

(B) where the Participant resigns, the date designated by the Trust or Related Entity as the last day of the Participant’s employment or service, which date shall not be earlier than the date the Participant’s notice of resignation is given; and

(ii) in the case of a U.S. Taxpayer, the date such Participant incurs a “separation from service” within the meaning of Section 409A of the Code;

provided that, “Separation Date” specifically does not mean the date on which any applicable period of reasonable notice or contractual notice that the Trust or a Related Entity may be required at common law, civil law or pursuant to contract to provide to the Participant expires, and provided further that the Board may determine that no Separation Date has occurred if the Participant transitions from being an Employee to another type of service relationship with the Trust or Related Entity.

(kk) **“Service Agreement”** means a written agreement between the Trust or a Related Entity on the one hand and the Participant on the other hand governing the services rendered by the Participant;

(ll) **“Trust”** means SmartCentres Real Estate Investment Trust and its successors and assigns;

(mm) **“TSX”** means the Toronto Stock Exchange;

(nn) **“U.S. Taxpayer”** means a Participant who is a U.S. citizen, U.S. permanent resident or a Participant whose Award of Performance Units under this Plan would be otherwise subject to U.S. taxation under the Code. Such Participant will be considered a U.S. Taxpayer solely with respect to such Award;

(oo) **“Unit”** means a variable voting unit of the Trust, each such unit representing an equal undivided beneficial interest therein, and any such other Unit as is added thereto or substituted therefore as a result of amendments to the Declaration of Trust, a reorganization, or otherwise;

(pp) **“Unitholder”** means a holder of Units; and

- (qq) “**Voting Securities**” means securities that carry the right to vote for Trustees of the Trust and, for greater certainty, include Units and Special Voting Units (as defined in the Declaration of Trust).

## 2.2 **Certain Rules of Interpretation**

- (a) Whenever the Board or, where applicable, the Committee or any sub-delegate of the Committee is to exercise discretion in the administration of the terms and conditions of this Plan, the term “discretion” means the sole and absolute discretion of the Board or the Committee or the sub-delegate of the Committee, as the case may be.
- (b) As used herein, the terms “**Article**” and “**Section**” mean and refer to the specified Article or Section of this Plan.
- (c) Words importing the singular include the plural and vice versa and words importing any gender include any other gender.
- (d) Unless otherwise specified, all references to money amounts are to Canadian currency.
- (e) “Control” for purposes of this Plan is determined based on the following:
- (i) to control a corporation, a Person must: (A) directly or indirectly beneficially hold (other than by way of security only) securities of such corporation or the right to vote or direct the voting of securities of such corporation to which, in the aggregate, are attached more than 50% of the votes that may be cast to elect directors of the corporation, provided that in all circumstances the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the corporation; or (B) have the power to control and direct in all circumstances the management and policies of such corporation, directly or indirectly, whether through the ownership or control of voting securities, voting rights, contract or otherwise;
  - (ii) to control a partnership other than a limited partnership, a Person must: (i) directly or indirectly beneficially hold (other than by way of security only) more than 50% of the partnership interests in such partnership; or (ii) have the power to control and direct in all circumstances the management and policies of such partnership, directly or indirectly, whether through the ownership or control of voting interests of the partnership, contract or otherwise;
  - (iii) to control a limited partnership, a Person must: (A) directly or indirectly beneficially hold (other than by way of security only) securities of the general partner of such limited partnership or the right to vote or direct the voting of securities of such general partner to which, in the aggregate, are attached more than 50% of the votes that may be cast to elect directors of the general partner, provided that in all circumstances the votes attached to

those securities are sufficient, if exercised, to elect a majority of the directors of such general partner; or (B) have the power to control and direct in all circumstances the management and policies of such general partner, directly or indirectly, whether through the ownership and control of voting securities, voting rights, contract or otherwise;

- (iv) to control a trust where the trustees have discretionary powers in respect of the trust assets, a Person must directly or indirectly have the right to elect or appoint a majority of the trustees of such trust;
- (v) to control a Person, other than a corporation, partnership or trust referred to in any of clauses (i) to (iv) above, and who is not an individual (the “**Subject Person**”), a Person must: (i) directly or indirectly beneficially own more than 50% of the ownership interests in the Subject Person; or (ii) have the power to control and to direct in all circumstances the management and policies of the Subject Person, directly or indirectly, whether through the ownership or control of voting securities, voting rights, contract or otherwise; and
- (vi) a Person who controls another Person is deemed to control any Person which is controlled, or deemed to be controlled, by such other Person.

### **ARTICLE 3 ADMINISTRATION**

#### **3.1 Administration of the Plan**

- (a) Subject to Section 3.1(b), this Plan will be administered by the Board and the Board has sole and complete authority, in its discretion, to:
  - (i) interpret the Plan and prescribe, modify and rescind rules and regulations relating to the Plan;
  - (ii) exercise rights reserved to the Trust under the Plan;
  - (iii) determine vesting schedules, Performance Measures and Performance Periods for Performance Units under the Plan;
  - (iv) prescribe forms for notices to be provided by the Trust under the Plan; and
  - (v) make all other determinations and take all other actions as it considers necessary or advisable for the implementation and administration of the Plan.

The Board’s determinations and actions under this Plan are final, conclusive and binding on the Trust, the Participants and all other Persons.

- (b) To the extent permitted by applicable law, the Board may, from time to time, delegate to the Committee all or any of the powers of the Board under the Plan, including the power to sub-delegate, to the extent permitted by applicable law, to

any specified officer of the Trust all or any of the powers delegated to the Committee. In such event, the Committee or specified officer will exercise the powers delegated to it by the Board and, if applicable, the Committee in the manner and on the terms authorized by the Board and, if applicable, the Committee. Any decision made or action taken by the Committee or the specified officer arising out of or in connection with the administration or interpretation of this Plan in this context is final, binding and conclusive on the Trust, the Participants and all other Persons.

### **3.2 Eligibility**

All Eligible Persons are eligible to receive Awards under the Plan. The Trust reserves the right to restrict eligibility or otherwise limit the number of Employees eligible for participation in the Plan at any time. Eligibility to participate does not confer upon any individual a right to receive an award of Performance Units pursuant to the Plan.

### **3.3 Consistency With Other Agreements**

Notwithstanding the general terms and conditions of the Plan and any Award Notice, the terms and conditions of any Award granted under this Plan shall, to the greatest extent possible, be made consistent with the terms and conditions of the applicable Participant's Service Agreement, in so far as such agreement provides for the treatment of performance-based incentives. In the event of any conflict between any such Service Agreement and this Plan or any applicable Award Notice, the Service Agreement shall govern.

### **3.4 Discretion of the Board**

Notwithstanding anything to the contrary in this Plan or any Award Notice, the Board retains discretion to make determinations respecting the performance level achieved, including for purposes of taking into consideration significant external challenges and opportunities faced by the Trust, and changes to the business and operations of the Trust that were not contemplated or reasonably expected as of the Award Date.

## **ARTICLE 4 AWARDS**

### **4.1 Awards of Performance Units**

Subject to the provisions of the Plan and such other terms and conditions as the Board may prescribe, the Board may, from time to time, award Performance Units to any Eligible Person. The Trust shall maintain on its books a separate account for each Participant for Performance Units. Performance Units shall be credited to the account maintained for the Participant on the books of the Trust as of the Award Date. The number of Performance Units (including fractions) to be credited to each Participant's account shall be determined by the Board in its sole discretion in accordance with the Plan.

## **4.2 Vesting Period**

Unless otherwise specified by the Board at the time of granting an Award of Performance Units as reflected in the Award Notice and except as otherwise provided in this Plan, the vesting period for each Performance Unit for which the applicable Performance Measure has been achieved will commence on the date that the applicable Performance Measure has been achieved and end on the earlier of the (i) third anniversary of the date the applicable Performance Measure is achieved and (ii) the end of the applicable Performance Period (such period, the “**Vesting Period**”). Performance Units which have so vested at the end of the Vesting Period (subject to earlier vesting as otherwise provided in this Plan, the Award Notice or the Participant’s Service Agreement) shall be referred to as “**Vested**”.

## **4.3 Award Notice**

Each Award of Performance Units under Section 4.1 of this Plan will be evidenced by an Award Notice. Such Award Notice will be subject to the applicable provisions of this Plan and will contain such provisions as are required by this Plan, including the applicable Performance Period, Performance Measures, vesting conditions and any other provisions that the Board may direct. Subject to approval by the Board, any two officers of the Trust are authorized and empowered to execute and deliver, for and on behalf of the Trust, an Award Notice to each Participant.

## **4.4 Credits for Distributions**

A Participant’s account shall be credited with Distribution Equivalents in the form of additional Performance Units as of each distribution payment date in respect of which cash distributions are paid on Units. Such Distribution Equivalents shall be computed by dividing: (a) the amount obtained by multiplying the amount of the distribution declared and paid per Unit by the number of Performance Units recorded in the Participant’s account on the record date for the payment of such distribution, by (b) the Distribution Market Value, with fractions computed to three decimal places. Distribution Equivalents credited to a Participant’s account shall vest in the same manner as, and in proportion to, the underlying Performance Units to which they relate. The foregoing does not obligate the Trust to make distributions on Units and nothing in this Plan shall be interpreted as creating such an obligation.

# **ARTICLE 5 REDEMPTION OF PERFORMANCE UNITS**

## **5.1 Determination of Vested Performance Units**

The number of Performance Units which shall Vest and become redeemable in respect of the applicable Performance Period shall be determined in accordance with the terms and conditions of this Plan and as set forth in the applicable Award Notice.

## **5.2 Redemption of Vested Performance Units**

- (a) The Performance Units credited to a Participant’s account that have Vested may be redeemed in whole or in part on the date on which the Participant files a written notice of redemption in the form prescribed by the Trust from time to time (the

“**Redemption Date**”). Such Redemption Date shall be no later than the eighth anniversary of the Award Date.

- (b) Subject to the provisions of the Plan, and the receipt by The Canadian Depository for Securities Limited of the Participant’s brokerage account information from his or her securities broker, the Trust shall issue to the Participant, within five (5) business days after the Redemption Date, a whole number of Units from the Trust equal to the whole number of Vested Performance Units then recorded in the Participant’s account which are to be redeemed, provided the Participant has satisfied payment of any Applicable Withholding Taxes. Alternatively, a Participant may specify in the Participant’s written notice of redemption that the Participant wishes to receive cash in respect of some or all of a whole number of the Vested Performance Units to be redeemed (the “**Cash Units**”), in which event the Trust will, at its election (a) pay to the Participant within five (5) business days after the Redemption Date an amount equal to the Market Value multiplied by the number of Cash Units, less any Applicable Withholding Taxes, in full satisfaction of the surrender by the Participant of all rights of the Participant to acquire Units pursuant to the Cash Units, or (b) issue such number of Units to the Participant as is equal to the number of Cash Units within five (5) business days after the Redemption Date, arrange to sell as soon as practical for and on behalf of the Participant such Units and pay to the Participant the proceeds from such sale, less any Applicable Withholding Taxes. It may take some time to effect such sale and the price at which such Units are sold may be higher or lower than the trading price of the Units on the date the Participant gave written notice of redemption. The Participant is solely responsible for the risk of, and solely entitled to any benefit from, fluctuations in the trading price of Units, regardless of the time taken to issue Units upon redemption of Performance Units and, if applicable, to sell Units for and on behalf of the Participant.
- (c) The sale or disposition of Units is subject to compliance with the Trust’s Insider Trading Policy. Any Participant who may be an “insider” or “in a special relationship” under such policy may not sell Units acquired under the Plan on a date, or provide a notice of redemption specifying a Redemption Date, which falls within a period in which trading in Units is restricted under such policy.
- (d) Following the receipt of such number of whole Units by the Participant from the Trust in accordance with Section 5.2(b), no fractional Units will be issued to the Participant by the Trust, and the Participant will have no right to receive any fractional Units, with respect to any fractional Performance Units remaining standing in the Participant’s account. For greater certainty, a Participant shall only have the right to receive whole Units and no cash payment or other adjustment will be made with respect to any fractional Performance Units so disregarded.
- (e) Upon redemption of Vested Performance Units pursuant to this Section 5.2, the redeemed Performance Units shall be cancelled.

### **5.3 U.S. Taxpayers**

Notwithstanding anything in this Plan to the contrary, the Redemption Date for a Participant who is a U.S. Taxpayer shall be set forth in such Participant's Award Notice.

### **5.4 Voluntary Termination or Termination for Cause**

Notwithstanding anything to the contrary in this Plan but subject to Section 3.3, and subject to any express resolution passed by the Board, if:

- (a) a Participant's service as an Employee is terminated for Cause; or
- (b) the Participant voluntarily terminates all employment or other service engagement with the Trust and its Related Entities other than pursuant to Retirement,

then any Performance Units granted to the Participant under the Plan which have not yet Vested as of the Separation Date shall terminate without payment and shall be of no further force or effect from and after the Separation Date. For clarity, any Performance Units granted to the Participant under the Plan for which, as at the Separation Date, the Performance Measure has not been achieved, shall terminate without payment and shall be of no further force or effect from and after the Separation Date.

### **5.5 Retirement**

Notwithstanding anything to the contrary in this Plan but subject to Section 3.3, upon the Retirement of any Participant, any Performance Units granted to the Participant under the Plan which, as at the date of such Retirement, have not yet Vested but for which the applicable Performance Measure has been achieved will continue to vest in accordance with Section 4.2 and shall be redeemable in accordance with Section 5.2; provided that, if the Participant breaches any of the Participant's obligations to the Trust or Related Entity following the Participant's Retirement, including any conditions of the Participant's Retirement, then any Performance Units granted to the Participant under the Plan shall terminate immediately without payment and shall be of no further force or effect from and after the date of such breach. For clarity, any Performance Units granted to the Participant under the Plan for which, as at the date of such Retirement, the Performance Measure has not been achieved, shall terminate without payment and shall be of no further force or effect from and after the date of such Retirement.

### **5.6 Termination Without Cause**

Notwithstanding anything to the contrary in this Plan but subject to Section 3.3, if a Participant's service as an Employee is terminated by the Trust without Cause:

- (a) any Performance Units granted to the Participant under the Plan which, as of the Separation Date, have Vested, shall be redeemable in accordance with Section 5.2;
- (b) any Performance Units granted to the Participant under the Plan which, as at the Separation Date, have not yet Vested and for which the applicable Performance Measure has not been achieved as at the Separation Date, shall immediately terminate without payment and shall be of no further force or effect from and after the Separation Date; and,

- (c) any Performance Units granted to the Participant under the Plan which, as at the Separation Date, have not yet Vested but for which the applicable Performance Measure has been achieved as at the Separation Date, shall Vest on the Separation Date a pro-rated basis, based on the number of whole months from the start of the Vesting Period to the Participant's Separation Date, divided by the number of whole months in the Vesting Period, and such Vested Performance Units shall be redeemable in accordance with Section 5.2.

## **5.7 Death or Disability**

Notwithstanding anything to the contrary in this Plan but subject to Section 3.3, if a Participant's service as an Employee is terminated:

- (a) due to the Participant's death, then:
  - (i) any Performance Units granted to the Participant under the Plan which, as of the date of death, have Vested, shall be redeemable in accordance with Section 5.2;
  - (ii) any Performance Units granted to the Participant under the Plan which, as at the date of death, have not yet Vested and for which the applicable Performance Measure has not been achieved as at the date of death, shall immediately terminate without payment and shall be of no further force or effect from and after the date of death; and
  - (iii) any Performance Units granted to the Participant under the Plan which, as at the date of death, have not yet Vested but for which the applicable Performance Measure has been achieved as at the date of death, shall Vest in full as of the date of death and shall be redeemable in accordance with Section 5.2; or
- (b) due to the Participant's Disability, then:
  - (i) any Performance Units granted to the Participant under the Plan which, as of the Separation Date, have Vested, shall be redeemable in accordance with Section 5.2;
  - (ii) any Performance Units granted to the Participant under the Plan which, as at the Separation Date, have not yet Vested and for which the applicable Performance Measure has not been achieved as at the Separation Date, shall immediately terminate without payment and shall be of no further force or effect from and after the Separation Date; and
  - (iii) any Performance Units granted to the Participant under the Plan which, as at the Separation Date, have not yet Vested but for which the applicable Performance Measure has been achieved will continue to vest in accordance with Section 4.2 and shall be redeemable in accordance with Section 5.2.



## **5.8 Change of Control**

In the event of a Change of Control, any Performance Units granted to Participants under the Plan which have not yet Vested but for which the applicable Performance Measures have been achieved as at the date which is immediately prior to the date upon which the Change of Control is completed, shall Vest in full as of such date and shall be redeemable in accordance with Section 5.2. In the event that the Change of Control is a Going Private Transaction, all such Vested Performance Units shall be redeemed as of the date which is immediately prior to the date upon which the Going Private Transaction is completed.

For clarity, any Performance Units granted to the Participant under the Plan for which, as at the date upon which the Change of Control is completed, the Performance Measure has not been achieved, shall terminate without payment and shall be of no further force or effect from and after the date upon which the Change of Control is completed.

## **5.9 Adjustments to Performance Units**

In the event of any subdivision, consolidation, dividends paid in the form of units or stocks in the capital of a Person (including in the form of Units), capital reorganization, reclassification, exchange, or other change with respect to the Units, or a consolidation, amalgamation, merger, spin-off, sale, lease or exchange of all or substantially all of the property of the Trust or other distribution of the Trust's assets to Unitholders (other than the payment of distributions in respect of the Units as contemplated by Section 4.4), the account of each Participant and the Performance Units outstanding under the Plan shall be adjusted in such manner, if any, as the Board may in its discretion deem appropriate to preserve, proportionally, the interests of Participants under the Plan.

## **5.10 No Entitlements to Damages or Compensation**

Except if and as required by applicable employment standards legislation, no Participant shall be entitled to any damages or other compensation for any Performance Units which do not Vest or is not awarded due to the cessation of the Participant's service relationship with the Trust or a Related Entity for any reason, whether lawful or unlawful, with or without notice. The Trust and the Participant expressly agree that the terms of this Plan displace any and all common law rights in respect of Performance Units governed by this Plan.

# **ARTICLE 6 CLAWBACK**

## **6.1 Awards Conditional**

It is a condition to the receipt of an Award and the receipt of any payment in respect of an Award that there shall not be any material restatement of the Trust's quarterly or annual financial statements or any Misconduct by the Participant.

## **6.2 Financial Restatement**

In the event that there is a material restatement of the Trust's quarterly or annual financial statements, adjustments may be made as determined by the Board to reduce the number of Performance Units (including any related Distribution Equivalents) in each Award that has not yet

vested which (a) has a Performance Period that includes the quarterly or annual financial period for which the Trust's financial statements have been restated, or (b) was granted in the calendar year immediately following the quarterly or annual financial period for which the Trust's financial statements have been restated in order to recoup from each Participant the amount, as the Board may determine, in excess of the amount that the Participant would have been entitled to receive in respect of such Award if the Trust's financial results had originally been reported in accordance with the restated results. In determining the amount to be recouped from a Participant, the Board may take into account any factors it deems relevant, including the Participant's position and degree of responsibility for the financial restatement, the availability of other remedies to the Trust and its Related Entities, any actual or potential penalties or punishments which regulators or third parties may impose on the Participant or the Trust, the cost and likely outcome of any potential litigation relating to recoupment, and whether recoupment may prejudice the Trust's interests, including the Trust's interests in any related proceeding or investigation.

### **6.3 Misconduct**

In the event of Misconduct by a Participant, in addition to any other remedy or cause of action the Trust or any Related Entities may have, the Participant shall forfeit such number of Performance Units (including any related Distribution Equivalents) of such Awards as the Board may determine. In determining the amount to be forfeited by a Participant, the Board may take into account any factors it deems relevant, including the Participant's position and degree of responsibility for the Misconduct, the availability of other remedies to the Trust and its Related Entities, any actual or potential penalties or punishments which regulators or third parties may impose on the Participant or the Trust, the cost and likely outcome of any potential litigation relating to the forfeiture, and whether forfeiture may prejudice the Trust's interests, including the Trust's interests in any related proceeding or investigation.

### **6.4 Board May Waive**

The Board may at any time waive the application of this Article 6 to any Participant or category of Participants.

## **ARTICLE 7 GENERAL**

### **7.1 Number of Units**

The aggregate number of Units authorized for issuance upon redemption of all Performance Units granted under the Plan, subject to any adjustment of such number pursuant to the provisions of Section 5.9 hereof, shall not exceed 3,000,000 Units.

Notwithstanding anything in the Plan, the aggregate number of Units (i) issued to insiders of the Trust, within any one year period, and (ii) issuable to insiders at any time, under this Plan or when combined with all of the Trust's other security based compensation arrangements, shall not exceed 10% of the Trust's total issued and outstanding Units, respectively.

## **7.2 Special Provisions for U.S. Taxpayers**

Notwithstanding anything to the contrary in the Plan, no provision of this Plan or amendment to this Plan may permit the acceleration of payments under this Plan to U.S. Taxpayers contrary to the provisions of Section 409A of the Code.

## **7.3 Amendment, Suspension, or Termination of the Plan**

- (a) Subject to applicable approvals and the provisions set out below, the Board may amend, suspend or terminate the Plan or any provision hereof at any time, provided, however, that such amendment, suspension or termination may not materially adversely affect the rights of a Participant with respect to an outstanding Award, without the consent of the Participant.
- (b) Subject to Section 7.3(c) below, Unitholder approval is not required for any amendment or modification that:
  - (i) makes minor or technical modifications, including amendments of a “housekeeping” nature;
  - (ii) corrects any ambiguity, defect, error or omission;
  - (iii) amends the vesting provisions of the Performance Units; or
  - (iv) makes any other amendment that does not require Unitholder approval under applicable laws or the rules of the TSX
- (c) Unitholder approval is required for any amendment or modification that:
  - (i) increases the number of Units reserved for issuance under this Plan;
  - (ii) extends eligibility to participate in this Plan to persons not currently eligible to participate;
  - (iii) permits entitlements under this Plan to be transferred other than for normal estate settlement purposes;
  - (iv) permits awards, other than those entitlements specifically contemplated in this Plan, to be made under this Plan;
  - (v) increases or removes the 10% limits on Units reserved for issuance to or issued to insiders under Section 7.1 of the Plan; and
  - (vi) deletes or removes the range of amendments which require approval of Unitholders under this Section 7.3.
- (d) If the Board terminates or suspends the Plan, no new Performance Units will be credited to the account of a Participant. Previously credited Performance Units, whether or not Vested, may at the Board’s election, be accelerated (if not then Vested) and redeemed or may remain outstanding. In the event that Performance

Units remain outstanding following a suspension or termination of the Plan, such Performance Units shall not be entitled to Distribution Equivalents unless at the time of termination or suspension the Board determines that the entitlement to Distribution Equivalents after termination or during suspension, as applicable, should be continued.

- (e) The Board may terminate the Plan if no further Performance Units remain outstanding.

#### **7.4 Compliance with Laws**

The administration of the Plan shall be subject to and made in conformity with all applicable laws and any regulations of a duly constituted regulatory authority. If at any time the Board determines that the consent or approval of any governmental body, securities exchange, or the Unitholders generally, is necessary or desirable, as a condition of, or in connection with, the granting of Performance Units under the Plan or the redemption thereof, no such Performance Units may be awarded or redeemed in whole or in part unless such consent or approval shall have been effected or obtained free of any conditions not acceptable to the Board.

#### **7.5 Participant's Entitlement**

Except as otherwise provided in this Plan, Performance Units previously granted under this Plan, whether or not then vested, are not affected by any change in the ownership of the Trust.

#### **7.6 Reorganization of the Trust**

The existence of any Performance Units shall not affect in any way the right or power of the Trust or the Unitholders to make or authorize any adjustment, recapitalization, reorganization or other change in the Trust's capital structure or its business, or to create or issue any bonds, debentures, units or other securities of the Trust or to amend or modify the rights and conditions attaching thereto or to effect the dissolution or liquidation of the Trust, or any amalgamation, combination, merger or consolidation involving the Trust or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar nature or otherwise.

#### **7.7 Assignment**

Rights and obligations under the Plan may be assigned by the Trust to a successor in the business of the Trust, any business resulting from any amalgamation, reorganization, combination, merger or arrangement of the Trust, or any business acquiring all or substantially all of the assets or business of the Trust.

#### **7.8 Performance Units Non-Transferable and Non-Assignable**

Performance Units are non-transferable and non-assignable by the Participant.

#### **7.9 Participation is Voluntary; No Additional Rights**

The participation of any Participant in the Plan is entirely voluntary and not obligatory and shall not be interpreted as conferring upon such Participant any rights or privileges other than those rights and privileges expressly provided in the Plan. In particular, participation in the Plan does

not constitute a condition of employment or service nor a commitment on the part of the Trust to ensure the continued employment or service of a Participant. Nothing in this Plan shall be construed to provide the Participant with any rights whatsoever to participate or to continue participation in this Plan, whether upon termination of the Participant's employment or otherwise.

#### **7.10 No Unitholder Rights**

Under no circumstances shall Performance Units be considered Units or other securities of the Trust, nor shall they entitle any Participant to exercise voting rights or any other rights attaching to the ownership of Units or other securities of the Trust, nor shall any Participant be considered the owner of Units by virtue of a grant of Performance Units.

#### **7.11 Unfunded and Unsecured Plan**

Unless otherwise determined by the Board, the Plan shall be unfunded and the Trust will not secure its obligations under the Plan. To the extent any Participant or his or her estate holds any rights by virtue of a grant of Performance Units under the Plan, such rights (unless otherwise determined by the Board) shall be no greater than the rights of an unsecured creditor of the Trust.

#### **7.12 Market Fluctuations**

No amount will be paid to, or in respect of, a Participant under the Plan to compensate for a downward fluctuation in the price of Units, nor will any other form of benefit be conferred upon, or in respect of, a Participant for such purpose. The Trust makes no representations or warranties to Participants with respect to the Plan or the Units whatsoever. In seeking the benefits of participation in the Plan, a Participant agrees to accept all risks associated with a decline in the market price of Units.

#### **7.13 Participant Information**

Each Participant shall provide the Trust with all information (including personal information) required by the Trust in order to administer to the Plan. Each Participant acknowledges that information required by the Trust in order to administer the Plan may be disclosed to third parties in connection with the administration of the Plan. Each Participant consents to such disclosure and authorizes the Trust to make such disclosure on the Participant's behalf.

#### **7.14 Electronic Delivery**

By participating in the Plan or accepting the Performance Units awarded under it, each Participant consents and agrees (a) to electronic delivery of any documents that the Trust may elect to deliver (including, but not limited to, Plan documents, grant or award notifications, notices, redemption forms, and all other forms of communications) in connection with any Award, grant or credit made or offered under the Plan; (b) that any and all procedures the Trust has established or may establish for an electronic signature system for delivery and acceptance of any such documents that the Trust may elect to deliver, and agrees that his or her electronic signature is the same as, and shall have the same force and effect as, his or her manual signature; and (c) that any such procedures and delivery may be affected by a third party engaged by the Trust to provide administrative services related to the Plan.

### **7.15 Taxes**

Performance Units granted under the Plan are intended to be an agreement to sell or issue securities pursuant to section 7 of the *Income Tax Act* (Canada) and the Plan shall be administered and interpreted consistent with such intent.

The issuance of Units under the Plan is subject to the condition that arrangements shall have been made which are satisfactory to the Trust in its sole discretion for the satisfaction of any Applicable Withholding Taxes. The Trust shall be authorized to deduct from any amount to be paid or credited under this Plan and from any other remuneration or other amount payable by the Trust or a Related Entity to the Participant any Applicable Withholding Taxes in such manner as the Trust determines or can require the sale of a number of Units issued upon redemption of Performance Units and the remittance to the Trust of the net proceeds from such sale sufficient to satisfy Applicable Withholding Taxes. The Trust does not assume responsibility for the personal income tax liability or other tax consequences for the Participants and they are advised to consult with their own tax advisors.

### **7.16 Indemnification**

Every trustee of the Trust will at all times be indemnified and saved harmless by the Trust from and against all costs, charges and expenses whatsoever including any income tax liability arising from any such indemnification, that such trustee may sustain or incur by reason of any action, suit or proceeding, taken or threatened against the trustee, otherwise than by the Trust, for or in respect of any act done or omitted by the trustee in respect of this Plan, such costs, charges and expenses to include any amount paid to settle such action, suit or proceeding or in satisfaction of any judgment rendered therein.

### **7.17 Effective Date of the Plan**

This Plan becomes effective on **[December 9, 2020]**.

### **7.18 Governing Law**

The Plan shall be governed by, and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to principles of conflict of laws.

APPROVED by the Board effective as of November 5, 2020 and approved by Unitholders **[on December 9, 2020]**.

Schedule A –

Performance Measures for the January 1, 2021 to December 31, 2027 Performance Period

The Award Notice will specify the number of Performance Units for which the Performance Measure will be achieved at the following Unit price thresholds:

- \$26.00
- \$28.00
- \$30.00
- \$32.00
- \$34.00

Each Unit price threshold will be achieved on the date upon which the daily volume weighted average price of all Units traded on the TSX (or, if such Units are not listed and posted for trading on the TSX, on such stock exchange on which such Units are listed and posted for trading as may be selected for such purpose by the Board) is equal to or exceeds the applicable Unit price threshold for 20 consecutive trading days.

# QUESTIONS? NEED HELP VOTING?

## CONTACT US

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