



## THE KEG ROYALTIES INCOME FUND

### INFORMATION CIRCULAR

(Containing information as at November 1, 2020, unless indicated otherwise)

### SOLICITATION OF PROXIES

**This Information Circular is furnished in connection with the solicitation of proxies by the trustees (the “Trustees”) of The Keg Royalties Income Fund (the “Fund”) for use at the annual meeting (the “Meeting”) of holders (the “Unitholders”) of units (the “Units”) and Exchangeable Securities (as defined hereto in this Information Circular) of the Fund to be held via a virtual meeting, Zoom Meeting ID 813 2815 2350, at 10:00 a.m. (Pacific Time), on Tuesday, December 15, 2020, or at any adjournments thereof, for the purposes set forth in the accompanying Notice of Meeting.**

It is expected that the solicitation of proxies for the Meeting will be primarily by mail, but proxies may be solicited personally, by telephone or by other means of communication by the Trustees of the Fund and by the directors (the “Directors”), officers and regular employees of The Keg GP Ltd. (“Keg GP”), the managing general partner of The Keg Rights Limited Partnership (the “Partnership”), the administrator of the Fund, who will not be specifically remunerated therefor. All costs of solicitation of proxies by or on behalf of the Trustees will be borne by the Fund.

#### *Notice and Access*

This year, the Fund is using the notice and access mechanism (“**Notice and Access**”) that allows the Fund to furnish proxy materials over the internet to Unitholders instead of mailing paper copies. Under Notice and Access, the Trust can deliver proxy-related materials by (i) posting the Information Circular (and other proxy related materials) on a website other than SEDAR and (ii) sending a notice informing Unitholders that the Information Circular and proxy related materials have been posted and explaining how to access them (the “**Notice**”).

On or about November 13, 2020, the Fund will send to Unitholders a notice package containing the Notice and the relevant voting document (a form of proxy or voting instruction form). The Notice contains basic information about the Meeting and the matters to be voted on, explains the Notice and Access process, and explains how to obtain a paper copy of the Information Circular.

The Fund has determined that those beneficial Unitholders with existing instructions on their account to receive paper material and those beneficial Unitholders with addresses outside of Canada and the United States will receive a paper copy of the Information Circular with the Notice.

### APPOINTMENT OF PROXIES

**The persons named in the accompanying Form of Proxy are Trustees of the Fund. A Unitholder desiring to appoint some other person, who need not be a Unitholder, to attend and act on the Unitholder’s behalf at the Meeting has the right to do so, either by inserting the desired person’s name in the blank space provided in the Form of Proxy or by completing another proper Form of Proxy.**

A Form of Proxy must be in writing and signed by the Unitholder or by the Unitholder’s attorney duly authorized in writing or, if the Unitholder is a body corporate or association, under its seal or by an officer or attorney thereof duly authorized indicating the capacity under which such officer or attorney is signing. If the Form of Proxy is executed by

an attorney, evidence of the attorney's authority must accompany the Form of Proxy. A proxy will not be valid unless the completed Form of Proxy is received by Computershare Trust Company of Canada, Attention: Proxy, 100 University Avenue, 8th Floor, Toronto, Ontario M5J 2Y1 not less than 24 hours (excluding Saturdays, Sundays and holidays) before the commencement of the Meeting, or any adjournment thereof.

**Beneficial Unitholders who hold their Units or Exchangeable Securities of the Fund through an intermediary/broker are not entitled, as such, to vote at the Meeting through a proxy. Regulatory policy requires intermediaries/brokers to seek voting instructions from Beneficial Unitholders in advance of the Meeting. Beneficial Unitholders should carefully follow the instructions of their intermediary/broker, including those on how and when voting instructions are to be provided, in order to have their Units or Exchangeable Securities voted at the Meeting. See "Beneficial Unitholders".**

#### REVOCATION OF PROXIES

A Unitholder who has given a Form of Proxy may revoke it by an instrument in writing that is signed and delivered to Computershare Trust Company of Canada in the manner as described above so as to arrive at any time up to and including the last business day preceding the day of the Meeting, or any adjournment thereof, at which the Form of Proxy is to be used, or to the chair of the Meeting on the day of the Meeting or any adjournment thereof, or in any other manner provided by law. A revocation of a Form of Proxy does not affect any matter on which a vote has been taken prior to the revocation.

#### VOTING OF PROXIES

**The Trustee representatives designated in the enclosed Form of Proxy will vote or withhold from voting the Units and Exchangeable Securities in respect of which they are appointed proxy on any poll that may be called for in accordance with the instructions of the Unitholder as indicated on the Form of Proxy and, if the Unitholder specifies a choice with respect to any matter to be acted upon, the Units and Exchangeable Securities will be voted accordingly. Where no choice is specified in the Form of Proxy, such Units and Exchangeable Securities will be voted "for" the matters described therein and in this Information Circular.**

The enclosed Form of Proxy confers discretionary authority upon the person appointed proxy thereunder to vote with respect to amendments or variations of matters identified in the Notice of Meeting and with respect to other matters that may properly come before the Meeting. If amendments or variations to matters identified in the Notice of Meeting are properly brought before the Meeting or any other business is properly brought before the Meeting, it is the intention of the Trustee representatives designated in the enclosed Form of Proxy to vote in accordance with their best judgment on such matters or business. At the time of the printing of this Information Circular, the Trustees know of no such amendment, variation or other matter which may be presented to the Meeting.

#### BENEFICIAL UNITHOLDERS

**The information set forth in this section is important to all Unitholders of the Fund.** Unitholders who do not hold their Units or Exchangeable Securities in their own name are referred to in this Information Circular as "Beneficial Unitholders". **Beneficial Unitholders should note that only a Unitholder whose name appears on the records of the Fund as a registered holder of Units and Exchangeable Securities or a person they appoint as a proxy can be recognized and vote at the Meeting.** Currently, all issued and outstanding Units are in a book-based system administered by The Canadian Depository for Securities ("CDS"). Consequently, all Units are currently registered under the name of CDS & Co. (the registration name for CDS). CDS also acts as nominee for brokerage firms through which Beneficial Holders hold their Units. Units held by CDS can only be voted (for or against resolutions) upon the instructions of the Beneficial Unitholder. Without specific instructions, brokers/nominees are prohibited from voting Units for their clients. The Trustees of the Fund do not know for whose benefit the Units registered in the name of CDS & Co. are held. **Therefore, Beneficial Unitholders cannot be recognized at the Meeting for purposes of voting their Units in person or by way of depositing a Form of Proxy.**

Applicable regulatory policy requires intermediaries/brokers to seek voting instructions from Beneficial Unitholders in advance of Unitholders' meetings. Every intermediary has its own mailing procedures and provides its own return instructions, which should be carefully followed by Beneficial Unitholders in order to ensure that their Units are voted at the Meeting. Often, the Form of Proxy supplied to a Beneficial Unitholder by its broker is identical to that provided

to registered Unitholders. However, its purpose is limited to instructing the registered Unitholder how to vote on behalf of the Beneficial Unitholder. The majority of brokers now delegate responsibility for obtaining instructions from clients to Broadridge Financial Solutions Inc. (“Broadridge”). Broadridge typically prepares a machine-readable special voting instruction form, mails those forms to the Beneficial Unitholders and asks Beneficial Unitholders to return the forms to Broadridge once completed in accordance with the appropriate instructions included. Broadridge then tabulates the results of all instructions received and provides appropriate instructions representing the voting of the securities to be represented at the Meeting. A Beneficial Unitholder receiving a Broadridge voting instruction form cannot use that voting instruction form to vote Units directly at the Meeting. The voting instruction form must be returned to Broadridge well in advance of the Meeting in order to have the Units voted. Proxy-related materials will be sent by the Fund to the intermediaries and not directly to the non-registered Beneficial Unitholders. The Fund intends to pay for intermediaries to deliver proxy-related materials to “objecting beneficial owners” and Form 54-101F7 (the request for voting instructions), in accordance with National Instrument 54-101 - *Communication with Beneficial Owners of Securities of a Reporting Issuer*.

Although Beneficial Unitholders may not be recognized directly at the Meeting for the purposes of voting Units registered in the name of CDS or their broker or other intermediary, a Beneficial Unitholder may attend at the Meeting as proxy holder for the registered holder and vote their Units in that capacity. Beneficial Unitholders who wish to attend the Meeting and indirectly vote their own Units as proxy holder for the registered holder should enter their own names in the blank space on the Form of Proxy or voting instruction form provided to them and return the same to their broker or other intermediary (or the agent of such broker or other intermediary) in accordance with the instructions provided by such broker, intermediary or agent well in advance of the Meeting. **If you are a Beneficial Unitholder and wish to vote in person at the Meeting, please contact your intermediary/broker well in advance of the Meeting to determine how you can do so.**

**Beneficial Unitholders should carefully follow the instructions of their intermediaries/brokers, including those on how and when voting instructions are to be provided, in order to have their Units voted at the Meeting.**

## FUND STRUCTURE

The Fund is a limited purpose, open-ended trust established under the laws of the Province of Ontario to acquire indirectly through the Partnership certain trademarks, and other related intellectual property (the “Keg Rights”) used by Keg Restaurants Ltd. (“KRL”) in both the operation and franchise of its Keg restaurants in Canada and the United States. The trademarks are licensed to KRL for 99 years for which KRL pays the Fund a royalty (the “Royalty”) of 4% of gross sales of Keg restaurants included in a pool (the “Royalty Pool”) of Keg steakhouses. The Fund is the lender to KRL of a loan in the aggregate amount of \$57 million (the “Keg Loan”) with interest on all amounts outstanding accruing at 7.5% per annum, payable monthly.

The Keg Holdings Trust (the “Trust”) is a limited purpose trust established under the laws of the Province of Ontario and is the sole limited partner of the Partnership.

Keg GP is a corporation incorporated under the laws of Canada and, as managing general partner of the Partnership, has the authority to manage and control the business and affairs of the Partnership. The affairs of Keg GP are supervised by its five member board of directors (the “Board of Directors”). The Fund holds 90 common shares in the capital of Keg GP and KRL holds the remaining 10 issued and outstanding common shares.

The Partnership is a limited partnership formed under the laws of the Province of British Columbia. Keg GP is the managing general partner of the Partnership. KRL is the general partner of the Partnership. The business of the Partnership consists of the ownership of the Keg Rights, the taking of actions to exploit, to the fullest extent possible, the use of the Keg Rights by KRL, the collection of the Royalty and the administration of the Fund and the Trust.

KRL is the leading operator and franchisor of steakhouse restaurants in Canada and has a substantial presence in certain regional markets in the United States.

The Fund does not carry on an active business but rather is restricted to holding the securities of: (i) the Partnership, indirectly through its wholly owned subsidiary, the Trust; and (ii) Keg GP. To the maximum extent possible, the Fund makes cash distributions to Unitholders of amounts received by the Fund pursuant to interest paid on the Keg Loan

and the Trust's notes and pursuant to distributions on the Trust's units, less estimated amounts required for the payment of expenses, any cash redemptions of Units and reasonable reserves (which are currently nominal).

### VOTING UNITS AND PRINCIPAL HOLDERS THEREOF

As of January 1, 2020, there are 11,353,500 Units issued and outstanding, each of which entitles the holder to one vote on a poll. In addition, KRL holds 905,944 Class A general partner units of the Partnership ("Class A Units"), 176,700 Class B general partner units of the Partnership ("Class B Units") and 3,679,692 Class D general units of the Partnership ("Class D Units"). KRL has the right to exchange, in certain circumstances, Class A Units, Class B Units, or Class D units for Units on the basis of one Class A Unit, one Class B Unit, or one Class D Unit, as the case may be, for each Unit. As of January 1, 2020, KRL may exchange all of its Class A Units, Class B Units and Class D Units (collectively referred to herein as the "Exchangeable Securities") into Units. There are a total of 4,762,336 Exchangeable Securities issued and outstanding as of January 1, 2020 which represents 29.55% of the Units on a fully diluted basis. See "Interest of Informed Persons in Material Transactions".

Holders of Exchangeable Securities are entitled to one vote on a poll for each Unit they would receive upon conversion of the Exchangeable Securities, provided that such holders are not entitled in the aggregate to cast:

- (a) more than 45% of the votes cast upon a resolution for the appointment or removal of a Trustee; or
- (b) any votes upon a resolution to amend the declaration of trust (the "Declaration of Trust") by which the Fund is governed in respect of the limitation upon the voting rights of the holders of Exchangeable Securities.

On a show of hands, every person present and entitled to vote will be entitled to one vote. Only registered holders of Units and Exchangeable Securities at the close of business on November 2, 2020, the record date established by the Trustees, are entitled to vote at the Meeting.

**Beneficial Unitholders who hold their Units of the Fund through an intermediary/broker are not entitled, as such, to vote at the Meeting in person. If you are a Beneficial Unitholder and wish to vote in person at the Meeting, please contact your intermediary/broker well in advance of the Meeting to determine how you can do so. See "Beneficial Unitholders".**

To the knowledge of the Trustees, no person beneficially owns, directly or indirectly, or exercises control or direction over, Units or Exchangeable Securities carrying more than 10% of the voting rights attached to all the issued and outstanding Units or Exchangeable Securities, other than:

Name	Class and Number of Securities	Percentage of Units on a Fully Diluted Basis
Recipe Unlimited Corporation <sup>(1)</sup>	Exchangeable Securities convertible into 5,012,336 Units <sup>(1)</sup>	31.10%
1832 Asset Management L.P.	1,498,300 Units	9.30%

Notes:

- (1) KRL is the registered holder of the Exchangeable Securities. See "Interest of Informed Persons in Material Transactions". As of December 31, 2019, Recipe, the parent company of KRL directly owned 250,000 Units and beneficially owned or exercised control over the equivalent of an additional 4,762,336 Units, through its ownership of KRL. Recipe therefore owned beneficially or exercised control over 5,012,336 Units or 31.10% of the outstanding Units on a fully diluted basis. As of January 1, 2020, as a result of KRL's initial entitlement to the Additional Entitlement for 2020, the Trustees, directors and executive officers, as a group, owned beneficially or exercised control or direction over 85,200 or approximately 0.53% of the outstanding Units on a fully diluted basis. As of January 1, 2020, Recipe owned beneficially or exercised control over 5,012,356 Units or 31.10% of the outstanding Units on a fully diluted basis.

### FINANCIAL STATEMENTS

The consolidated financial statements of the Fund for the period ended December 31, 2019, together with the auditors' reports thereon, are being mailed to Unitholders contemporaneously with the Information Circular. No formal action will be taken at the Meeting to approve the financial statements, the requirements of the Declaration of Trust having

been satisfied by their advance circulation to Unitholders. If any Unitholders have questions regarding such financial statements, such questions may be brought forward at the Meeting.

## ELECTION OF TRUSTEES

### *Majority Voting Policy*

The Board has adopted a majority voting policy that requires that any nominee for Trustee who receives a greater number of votes "withheld" than votes "for" his or her election as a Trustee shall submit his or her resignation to the Governance Committee of the Keg GP for consideration promptly following the Meeting. This practice is intended to apply only to uncontested elections, meaning elections where the number of nominees for Trustee is equal to the number of Trustees to be elected. The Governance Committee shall consider the resignation and shall provide a recommendation to the Board. The Board will consider the recommendation of the Governance Committee and determine whether to accept it within 90 days of the applicable Meeting and a news release will be issued by the Fund announcing the Board's determination. A Trustee who tenders his or her resignation will not participate in any meetings to consider whether the resignation shall be accepted. **Unitholders should note that, as a result of the foregoing policy, a "withhold" vote is effectively the same as a vote against a Trustee nominee in an uncontested election.**

### *Nominees*

The number of Trustees to be elected at the Meeting is determined from time to time by resolution of the Trustees, such number being not more than ten and not less than two. The Trustees have fixed the number of Trustees to be elected at the Meeting at two. The term of office of each of the present Trustees expires at the close of the Meeting. All Trustees elected at the Meeting will hold office for a term expiring at the close of the next annual meeting of Unitholders or until their successors are appointed, unless his office is vacated earlier in accordance with the Declaration of Trust. In the following table is stated the name of each person proposed to be nominated for election as a Trustee, the municipality in which s/he is ordinarily resident, all offices of the Fund now held by him/her, his/her principal occupation, the period of time for which s/he has been a Trustee of the Fund, and the number of Units and Exchangeable Securities beneficially owned by him/her, directly or indirectly, or over which s/he exercises control or direction, as at the date hereof:

Name, Position and Municipality of Residence <sup>(1)</sup>	Principal Occupation and, if not Previously Elected as a Trustee, Occupation During the Past 5 Years <sup>(1)</sup>	Period of Service as a Trustee	Number of Units and Exchangeable Securities Held <sup>(2)</sup>
TIM KERR Trustee Vancouver, BC, Canada	Partner, Springhouse Investments Corp.	Since June 7, 2013	16,000
CHRISTOPHER CHARLES WOODWARD Trustee, Chairman of the Board of Trustees and Corporate Secretary Vancouver, BC, Canada	President, Woodcorp Investments Ltd.	Since April 12, 2002	4,500

(1) The information as to municipality of residence and principal occupation, not being within the knowledge of the Fund, has been furnished by the respective Trustees individually.

(2) The information as to Units and Exchangeable Securities beneficially owned or over which a Trustee exercises control or direction, not being within the knowledge of the Fund, has been furnished by the respective Trustees individually.

**Unless such authority is withheld, the Trustee representatives named in the accompanying Form of Proxy intend to vote for the election of the nominees whose names are set forth herein.**

## DIRECTORS OF KEG GP

Pursuant to the provisions of a second amended and restated governance agreement among the Fund, the Partnership, the Trust, Keg GP, KRL, David Aisenstat and Recipe Unlimited Corporation (together with all of its affiliates), the

Board of Directors of Keg GP is required to consist of five individuals. Three Directors are nominated by the Fund (each of whom may be a Trustee, and must be an “unrelated director” within the meaning of the corporate governance policy of The Toronto Stock Exchange, and “independent” within the meaning of applicable securities laws) and two Directors are nominated by KRL. KRL’s entitlement to nominate Directors is subject to KRL holding, directly or indirectly, 10% or more of the Units whether held directly or indirectly through Exchangeable Securities. The Fund and KRL are required, pursuant to the governance agreement, to vote their common shares of Keg GP in favour of such nominees.

In the following table is stated the name of each person nominated for election as a Director by the Fund and KRL, the municipality in which he is ordinarily resident, all offices of Keg GP now held by him, his principal occupation and the period of time for which he has been a Director of Keg GP:

<b>Name, Position and Municipality of Residence<sup>(1)</sup></b>	<b>Principal Occupation During the Past 5 Years<sup>(1)</sup></b>	<b>Period of Service as a Director</b>
CHRISTOPHER CHARLES WOODWARD <sup>(2)(3)(4)</sup> Director Vancouver, BC, Canada	President, Woodcorp Investments Ltd.	Since May 1, 2002
TIM KERR <sup>(2)(3)(4)</sup> Director Vancouver, BC, Canada	Partner, Springhouse Investments Corp.	Since June 7, 2013
DAVID AISENSTAT <sup>(5)</sup> Director and President Vancouver, BC, Canada	Chief Executive Officer, KRL	Since May 31, 2002
NEIL MACLEAN <sup>(5)</sup> Officer, Treasurer and Secretary Surrey, BC, Canada	Executive Vice-President and Chief Financial Officer, KRL	Since May 31, 2002

- (1) The information as to municipality of residence and principal occupation, not being within the knowledge of the Fund, has been furnished by the respective Directors individually.
- (2) Member of the Audit Committee of Keg GP.
- (3) Member of the Governance Committee of Keg GP.
- (4) Nominee of the Fund.
- (5) Nominee of KRL.

### CONFLICTS OF INTEREST

Other than disclosed herein, to the knowledge of the Trustees, there are no existing or potential material conflicts of interest among the Fund or a subsidiary of the Fund and a Trustee, director or officer of the Fund or a subsidiary of the Fund.

David Aisenstat and Neil Maclean are each a director of Keg GP and are also directors and officers of KRL. Due to the relationship between KRL and the Fund, or a subsidiary of the Fund, such persons may have conflicting interests.

### APPOINTMENT OF AUDITORS

At the Meeting, the Unitholders will be called upon to appoint KPMG LLP, as auditors of the Fund, to hold office until the next annual meeting of the Fund, at a remuneration to be fixed by the Trustees. KPMG LLP has acted as the auditors of the Fund since the inception of the Fund on April 12, 2002.

**Unless such authority is withheld, the Trustee representatives named in the accompanying Form of Proxy intend to vote for the appointment of KPMG LLP, as auditors of the Fund, to hold office until the next annual meeting of the Fund, at a remuneration to be fixed by the Trustees.**

**The Trustees recommend that the Unitholders vote for the appointment of KPMG LLP as auditors of the Fund, at a remuneration to be fixed by the Trustees.**

## STATEMENT OF EXECUTIVE COMPENSATION

### Compensation of Trustees and Directors

The following table provides a summary of compensation provided to the Trustees of the Fund and the Directors of Keg GP for most recently completed financial year.

<u>Name</u>	<u>Fees Earned (\$)</u>	<u>Share- Based Awards (\$)</u>	<u>Option- Based Awards (\$)</u>	<u>Non-Equity Incentive Plan Compensation (\$)</u>	<u>Pension Value (\$)</u>	<u>All other Compensation (\$)</u>	<u>Total (\$)</u>
George Killy	\$30,500	n/a	n/a	n/a	n/a	n/a	\$30,500
Tim Kerr	\$30,500	n/a	n/a	n/a	n/a	n/a	\$30,500
Christopher Charles Woodward	\$30,500	n/a	n/a	n/a	n/a	n/a	\$30,500
David Aisenstat	nil	n/a	n/a	n/a	n/a	n/a	nil
Neil Maclean	nil	n/a	n/a	n/a	n/a	n/a	nil

The annual compensation for each Trustee is \$7,500 plus \$1,000 for each meeting of the Trustees except where the Trustee attends a meeting of the Board of Directors of Keg GP or a meeting of the trustees of the Trust on the same day and for which compensation is paid. The trustees of the Trust (who comprise all of the Trustees) are also compensated \$7,500 per annum plus \$1,000 for each meeting of the trustees of the Trust except where such trustee attends a meeting of the Board of Directors of Keg GP or a meeting of the Trustees on the same day and for which compensation is paid. The Trustees are also Directors of Keg GP and, as such, each receives compensation of \$7,500 per year plus \$1,000 for attending each meeting of the Board of Directors or a committee thereof except where the Trustee attends a meeting of the Trustees or a meeting of the trustees of the Trust on the same day and for which compensation is paid. Trustees paid compensation to Trustee Killy during his medical leave in 2019 and 2020. Directors who are also directors or officers of KRL are not entitled to the annual retainer payable to Directors. Trustees, trustees of the Trust and Directors are also entitled to be reimbursed for reasonable expenses incurred by them in connection with their services as Trustees, trustees of the Trust and Directors. The aggregate amount paid to the Trustees as compensation, for acting as Trustees, trustees of the Trust and Directors, during the financial year of the Fund ended December 31, 2019 was \$91,500. This compensation (and any expense reimbursement) is paid by the Partnership.

### Trustees', Directors' and Officers' Liability Insurance

The Partnership maintains a policy of insurance for the Trustees, the trustees of the Trust and the directors and officers of Keg GP. The aggregate limit of liability applicable to all insured trustees, directors and officers under the policy is \$10 million inclusive of defence costs. Under the policy, the Fund, the Trust and Keg GP have reimbursement coverage to the extent that it has indemnified the insured trustees, directors and officers in excess of a deductible of \$50,000 for each loss. The aggregate limit of liability will be shared between the Fund, the Trust and Keg GP and their respective trustees, directors and officers such that the limit of liability will not be exclusive to the Fund, the Trust, Keg GP or their respective directors, officers and trustees. The annual premium for the period from May 28, 2019 to May 27, 2020 was paid by the Partnership and amounted to \$21,385, and for the period from May 28, 2020 to May 27, 2021 was paid by the Partnership and amounted to \$75,876.

### INDEBTEDNESS OF TRUSTEES AND DIRECTORS AND OFFICERS OF KEG GP

No current or former Trustee, proposed nominee for election as a Trustee, director or officer of Keg GP, or an associate of any of the foregoing is, or at any time during the Fund's most recently completed financial year was, indebted to (i) the Fund, (ii) the Trust, (iii) Keg GP, (iv) the Partnership, or (v) to another entity where such indebtedness is or has been the subject of a guarantee, support agreement, letter of credit or other similar arrangement or understanding provided by the Fund, the Trust, Keg GP or the Partnership, other than routine indebtedness.

## INTEREST OF INFORMED PERSONS IN MATERIAL TRANSACTIONS

Other than as set forth below or elsewhere in this Information Circular, to the knowledge of the Trustees, no “informed person” has any material interest, direct or indirect, by way of beneficial ownership or otherwise, in any transaction with the Fund since the commencement of the Fund’s last financial year or in any proposed transaction which has materially affected or would materially affect the Fund, the Trust, the Partnership or Keg GP. An “informed person” means (a) a Trustee; (b) a trustee, director or executive officer of the Trust, the Partnership, Keg GP or a person or company that is itself an informed person; (c) any person or company who beneficially owns, directly or indirectly, voting securities of the Fund or who exercises control or direction over voting securities of the Fund or a combination of both carrying more than 10% of the voting rights attached to all Units; and (d) the Fund, if it has purchased, redeemed or otherwise acquired any of its securities, for so long as it holds any of its securities.

On May 31, 2002, pursuant to an acquisition agreement (the “Acquisition Agreement”), KRL, an insider of the Fund, transferred the Keg Rights to the Partnership for a total purchase price of \$113,546,820. The purchase price was paid (i) as to \$30,487,380, by a cash payment; and (ii) as to \$83,059,440, by the issue of 905,944 Class A Units, 3,376,700 Class B Units and 5,700,000 Class C general partner units of the Partnership.

Concurrently with the transfer of the Keg Rights to the Partnership, the Partnership pursuant to a licence and royalty agreement (the “Licence and Royalty Agreement”) granted KRL an exclusive and unlimited licence to use the Keg Rights for a period of 99 years, for which KRL agreed to pay the Partnership the Royalty. In connection with the Licence and Royalty Agreement, KRL granted to the Partnership a general security agreement (the “Partnership General Security Agreement”) to secure payment of the Royalty and all of its obligations under the Licence and Royalty Agreement. The number of Keg steakhouses included in the Royalty Pool is amended annually.

As described above, on January 1st, the pool of Keg restaurants on which KRL pays a royalty to the Partnership (the “Royalty Pool”) is adjusted to include the gross sales from new Keg restaurants that have opened on or before October 2nd of the prior year, less gross sales from any Keg restaurants that have permanently closed during the year. In return for adding these net sales to the Royalty Pool, KRL receives the right to indirectly acquire additional Fund units (the “Additional Entitlement”). The Additional Entitlement is currently determined based on 92.5% of the royalty revenue added to the Royalty Pool, divided by the yield of the Fund units divided by the weighted average unit price of the Fund units. KRL receives 80% of the estimated Additional Entitlement initially, with the balance received on December 25<sup>th</sup> of each year when the actual full year performance of the new restaurants is known with certainty.

During 2005, it was determined that the roll-in formula used to calculate the Additional Entitlement was inconsistent with other restaurant royalty funds in the Fund’s peer group such that the accretion that was intended to result from the addition of new sales to the Royalty Pool was affected by the Fund’s Unit price at the time of the roll-in. If the Unit price was above \$10, the addition of new restaurant sales to the Royalty Pool would be less accretive to unitholders than intended and conversely, if the Unit price was below \$10, the addition of new restaurant sales would be more accretive than intended.

As a result, on December 12, 2005, the Fund’s Trustees and KRL’s management amended the arrangements between KRL and the Fund (with effect as if the amendments had been made on May 31, 2002, the date of the Fund’s initial public offering (“IPO”)) to ensure that the intended accretion to unitholders continues regardless of the Fund’s Unit price. As part of these new arrangements, KRL agreed to waive its entitlement to receive approximately 43,718 Units in connection with the Additional Entitlement for the January 1, 2005 pursuant to the existing formula.

On December 21, 2010, the Fund announced its intention to remain an income trust in connection with the introduction of the specified investment flow-through trust tax (the “SIFT tax”) which became effective on January 1, 2011. Further to this determination, during the first quarter of 2011 the Trustees of the Fund and KRL determined that the SIFT tax would have a negative and unintended impact on the economics associated with the roll-in mechanism for the Additional Entitlements on January 1, 2012 and thereafter. Specifically, if no change was made to the terms of the Limited Partnership Agreement, further additions to the Royalty Pool (and the compensation paid to KRL for creating additional Royalty revenue for the Partnership) would not be accretive to the Fund and its Unitholders and KRL would receive Additional Entitlements greater than such Royalty revenue would have been worth on an after-tax basis to the Fund and the Unitholders. Though KRL was under no contractual or other legal obligation to enter into any amendment to the Limited Partnership Agreement, management of KRL advised the Fund that is believed an



adjustment to the roll-in mechanism was in the best interests of all parties as a way of preserving investor confidence and interest in the Fund and the market price of the Units.

On May 17, 2011, Unitholders of the Fund approved an amendment to the terms of the Limited Partnership Agreement, the details of which amendment were described in the Fund's Management Information Circular dated April 12, 2011, and which amendment would reduce (relative to what would have been received without the amendment) the Additional Entitlements that KRL was entitled to receive. A copy of the Amended and Restated Limited Partnership Agreement dated as of May 17, 2011 can be found on [www.sedar.com](http://www.sedar.com).

The total number of Keg restaurants included in the Royalty Pool has increased from the 80 Keg restaurants in existence on March 31, 2002, to 105 as of December 31, 2019. Seventy-one new Keg restaurants that opened during the period from April 1, 2002 through October 2, 2018, with annual gross sales of \$363,800,000, have been added to the Royalty Pool. Forty-six permanently closed Keg restaurants with annual sales of \$143,834,000 have been removed from the Royalty Pool. This has resulted in a net increase in Royalty Pool sales of \$219,966,000 annually and KRL receiving a cumulative Additional Entitlement equivalent to 6,701,980 Fund units as of December 31, 2019.

KRL's effective ownership of the Fund and its interest in the earning of the Partnership has grown from 10.00% at the time of the Fund's IPO to 27.97% as of December 31, 2019. The increase in KRL's effective ownership of the Fund is due to the cumulative Additional Entitlement received by KRL equivalent to 6,701,980 Fund units, less 3,200,000 Exchangeable units exchanged by KRL for Fund units and sold through the facilities of the TSX. The sale of the 3,200,000 Exchangeable units increased the number of issued and outstanding Fund units from 8,153,500 at the time of the IPO to 11,353,500 as of February 8, 2011.

On January 1, 2020, an estimated \$19,111,000 in annual net sales were added to the Royalty Pool. Five new Keg restaurants that opened during the period from October 3, 2018 through October 2, 2019, with estimated gross sales of \$34,000,000 annually, were added to the Royalty Pool. Four permanently closed Keg restaurants with annual sales of \$14,889,000 was removed from the Royalty Pool. The total number of restaurants in the Royalty Pool increased to 106. The pre-tax yield of the Fund units was determined to be 9.72% calculated using a weighted average unit price of \$16.42.

As a result of the contribution of the additional net sales to the Royalty Pool, and assuming 100% of the estimated Additional Entitlement is received, KRL's Additional Entitlement will be equivalent to 443,015 Fund units, being 2.73% of the Fund units on a fully diluted basis.

On January 1, 2020, KRL received 80% of this entitlement representing the equivalent of 354,412 Fund units, being 2.20% of the Fund units on a fully diluted basis. KRL will also receive a proportionate increase in monthly distributions from the Partnership. Including the initial portion of the Additional Entitlement described above, KRL will have the right to exchange its units in the capital of the Partnership for 4,762,336 Fund units representing 29.55% of the Fund units on a fully diluted basis.

The balance of the additional entitlement will be adjusted on December 25, 2020 to be effective January 1, 2020, once the actual performance of the new restaurants has been confirmed. If KRL were to receive 100% of the estimated Additional Entitlement for 2020, it would have the right to exchange its Partnership units for 4,850,939 Fund units representing 29.94% of the Fund units on a fully diluted basis.

Mr. David Aisenstat who is a Director of Keg GP, is also a director, and together with Mr. Neil Maclean, officers of KRL. KRL is wholly owned by Recipe Unlimited Corporation, which is a subsidiary of Fairfax Financial Holdings Ltd.

Pursuant to a registration rights agreement (the "Registration Rights Agreement") dated May 31, 2002, KRL was granted certain demand and "piggy-back" registration rights by the Fund.

KRL granted to the Fund a general security agreement (the "Keg General Security Agreement") dated May 31, 2002 to secure payment of the Keg Loan. The Keg General Security Agreement and the Partnership General Security Agreement are subordinate to security granted by KRL to a syndicate of Canadian banks to secure a \$55,000,000 revolving loan facility entered into on November 29, 2019 for the expansion of restaurant operations and a \$5,000,000

revolving demand operating facility with a Canadian chartered bank entered into on the same date for general corporate purposes, including working capital, overdrafts and letters of credit (collectively, the Keg Facility”).

The full details of the foregoing transactions and relationships including summaries of the provisions contained in the Acquisition Agreement, Licence and Royalty Agreement, Partnership General Security Agreement, Registration Rights Agreement, the Keg Loan, the Keg General Security Agreement and the governance agreement referred to under “Directors of Keg GP” above (but excluding the Keg Facility) are included in the Fund’s Annual Information Form dated on March 30, 2020 and filed with the security regulatory authorities in each of the provinces and territories of Canada. Copies of the annual information form and the various material agreements (as may be amended from time to time) referred to therein may be obtained at the Canadian securities regulatory authorities website at [www.sedar.com](http://www.sedar.com).

#### **MANAGEMENT CONTRACTS**

Other than KRL’s provision of ongoing and regular consultation and management services to the Partnership as to the operation and management of the business of the Partnership for which it is paid no consideration other than third party expense reimbursement, there are no management functions of the Fund, the Partnership or Keg GP which are to any substantial degree performed by a person other than the Trustees, in the case of the Fund, or the directors and officers of Keg GP, in the case of the Partnership and Keg GP.

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

The Trustees know of no matters to come before the Meeting other than those referred to in the Notice of Meeting accompanying this Information Circular. However, if any other matters properly come before the Meeting, it is the intention of the Trustee representatives named in the Form of Proxy accompanying this Information Circular to vote the same in accordance with their best judgment of such matters.

#### **ADDITIONAL INFORMATION**

Additional information relating to the Fund is available on the System for Electronic Document Analysis and Retrieval at [www.sedar.com](http://www.sedar.com). Financial information is provided in the Fund’s audited financial statements for the fiscal year ended December 31, 2019, together with the management’s discussion and analysis thereon and is available upon request from Neil Maclean, the Treasurer and Secretary of Keg GP, 10100 Shellbridge Way, Richmond, British Columbia, V6X 2W7.

#### **APPROVAL OF CIRCULAR**

The undersigned hereby certifies that the contents and the sending of this Information Circular have been approved by the Trustees.

DATED at Vancouver, British Columbia, this 2<sup>nd</sup> day of November, 2020.

#### **BY ORDER OF THE TRUSTEES**



C. C. Woodward  
Chairman of the Board of Trustees

## SCHEDULE “A”

### STATEMENT OF CORPORATE GOVERNANCE PRACTICES

The Trustees, the Board of Directors of Keg GP (the “GP Board”) and the KRL management team are committed to a high standard of corporate governance. Effective corporate governance requires specified reporting structures and business processes, a strategic plan, and a commitment to work according to these. The Trustees believe that sound corporate governance contributes to unitholder value and to trust and confidence in the Fund. The Keg GP Board is responsible under law for the stewardship of the Partnership, including the business affairs of the Fund. To help execute this mandate, the Keg GP Board has established an Audit Committee and Governance Committee, both of which are composed exclusively of “independent” Directors. The Trustees have not established any committees and none are considered necessary due to the limited number of Trustees, the nature of the Fund’s business and the committees that have been established by the Keg GP Board. The Canadian Securities Administrators established various guidelines, which came into force on June 30, 2005, and which require listed companies to disclose their corporate governance practices on an annual basis with reference to these guidelines.

Management of the Fund has monitored ongoing developments in the area of corporate governance best practices with a view to making appropriate changes to the Fund’s corporate governance structures and procedures, as described below.

References in this discussion to “the Board” relate to the Fund’s Board of Trustees and the Keg GP Board collectively.

#### *Board Composition and Independence*

The Fund’s Board is currently comprised of three Trustees, each of which is “independent” (Messrs. Killy, Kerr and Woodward).

Pursuant to a governance agreement by which Keg GP is governed, Keg GP has five Directors, three of which must be “independent” directors. Of the Directors, David Aisenstat, the President, Chief Executive Officer and a director of KRL, and Neil Maclean, an Executive Vice-President, Chief Financial Officer and a director of KRL, are by virtue of the business relationship between KRL and the Partnership, not considered to be “independent” directors.

The Trustees, and the remainder of the Directors, including the chair of the Fund and Keg GP Boards, Mr. Woodward, are free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the Trustee’s or Director’s ability to act with a view to the best interests of the Fund and the Partnership, respectively, other than interests and relationships arising from shareholdings, if any, and consequently are considered to be “independent” trustees and directors. The particular roles and responsibilities of the chair of the Fund’s Board are set out in the Charter of the Board of Trustees attached as Schedule “B” to this circular.

Mr. Woodward is also a director of Village Farms International Inc.

The Keg GP Board meets independently of management of KRL when needed; such meetings occur, at the very least, at the conclusion of every meeting of the Keg GP Board. During such meetings of the independent directors, the Board encourages open and candid discussion in respect of any issues not raised in the presence of the non-independent directors. The currently established committees of the Keg GP Board are composed entirely of independent directors.

The attendance record of each of the Fund’s Trustees and Keg GP’s directors for all Board meetings held since January 1, 2019 is as follows:

*Attendance of Trustees and Directors*

<i>Trustee/Director</i>	<i>Board of Trustees Meetings Attended (in person or by telephone)</i>	<i>GP Board Meetings Attended (in person or by telephone)</i>	<i>Audit Committee Meetings Attended (in person or by telephone)</i>	<i>Governance Committee Meetings Attended (in person or by telephone)</i>
George Killy <sup>(3)</sup>	0 of 13	0 of 6	0 of 4	0 of 2
Tim Kerr	13 of 13	6 of 6	4 of 4	2 of 2
Christopher Charles Woodward	13 of 13	6 of 6	4 of 4	2 of 2
David Aisenstat	N/A <sup>(1)</sup>	6 of 6	N/A <sup>(2)</sup>	N/A <sup>(2)</sup>
Neil Maclean	N/A <sup>(1)</sup>	6 of 6	N/A <sup>(2)</sup>	N/A <sup>(2)</sup>

(1) David Aisenstat and Neil Maclean are not members of the Fund’s Board of Trustees.

(2) David Aisenstat and Neil Maclean are not members of Keg GP’s Audit Committee or the Governance Committee.

(3) George Killy was on medical leave in 2019 and was unable to attend meetings.

***Board Mandate***

The Board, either directly or through its committees, supervises the business and affairs of the Fund and Keg GP.

The Board is kept informed of the Fund’s and Keg GP’s operations at Board meetings, committee meetings and through reports and discussions with management of the two entities, as necessary. The Board and the Audit Committee meet on a quarterly basis, and the Governance Committee meets on a semi-annual basis, in each case with additional meetings scheduled as and when required. In addition, there is continued communication between senior management of the Fund and Keg GP and their respective boards on an informal basis.

The duties and responsibilities of the Fund’s Board are set out in the Charter of the Board of Trustees attached as Schedule “B” to this circular.

***Position Descriptions***

The Board has not developed specific written position descriptions for the CEO, the chair of the Fund’s Board or the chairs of the committees of the Board, although the mandate of the Fund’s Board includes a description of the chair’s responsibilities and each committee has terms of reference by which its chair can be assessed. A written position description is being created for the CEO of Keg GP, whose role and responsibilities are currently assessed annually through the Board’s review of the Partnership’s strategic plan and quarterly through the CEO’s report to the Board.

### ***Orientation and Continuing Education***

The Governance Committee is responsible for establishing and administering the orientation and continuing education of the Board and committee members to ensure that all trustees and directors fully understand the role of the Board and its committees and the nature and operation of the Partnership's business.

As and when a new nominee is identified, the Governance Committee ensures that a full program of orientation and education is provided for the nominee with a goal of assisting new directors in understanding: (a) the role of the Board and its committees; (b) the contribution individual directors are expected to make (including the commitment of time and energy that the Corporation expects from its directors); and (c) the nature and operation of the Corporation's business. The orientation program includes the provision of a complete corporate history, including copies of past minutes of meetings of the Keg GP Board and of the Trustees, as well as information regarding Keg GP's, the Partnership's and Fund's business.

### ***Ethical Business Conduct***

The Board has a strong commitment to the conduct of business in a lawful and ethical manner. On March 22, 2006, the Board adopted a written Code of Business Conduct and Ethics (the "Code") for directors, officers and employees which may be obtained by contacting the Secretary of the Keg GP, Neil Maclean, at [neilm@kegrestartaurants.com](mailto:neilm@kegrestartaurants.com). The Code describes confidential reporting procedures which may be used by personnel to communicate good faith concerns about any violation of the Code or related policies and guidelines.

All of the trustees, directors, officers and employees of the Fund and the Partnership are subject to the Code. Management monitors compliance with the Code, but any trustee, director or employee may report any violations of the Code directly to the chair of the Governance Committees (currently Mr. Woodward) who maintains a log of all reports that are received, tracking their receipt, investigation and resolution. No waivers of the Code have been granted to date.

In addition to the Code, the Board's commitment to conducting business in a lawful and ethical manner is further reflected by the establishment, by the Trustees in conjunction with management of KRL, of formal insider trading, confidential information, whistleblowing and disclosure policies which ensure continuity of communications with analysts and the public, and contain measures to avoid selective disclosure. The Fund has also established an Audit Committee mandate as well as terms of reference for the Governance Committee.

Furthermore, the Audit Committee of the Keg GP Board is responsible for monitoring the integrity of the Fund's and the Partnership's financial reporting, accounting systems and internal controls. KRL is expected, on an ongoing basis, to review its internal controls and management information systems with the Keg GP Board.

### ***Nomination of Directors***

The Governance Committee of the Keg GP Board, which is composed exclusively of "independent" directors, is responsible for recommending the nominees for election and re-election as Directors. Given that each of the Trustees is also a director, the Trustees do not believe a separate Trustee nominating committee is necessary.

### ***Compensation***

The adequacy and form of management, trustee and director compensation is periodically analysed against the competitive marketplace by the Governance Committee, composed entirely of "independent" directors, with any resultant recommendations made to the full Board to ensure that such compensation realistically reflects the roles, risks and responsibilities of each respective group.

The annual compensation for each Trustee is \$7,500 plus \$1,000 for each meeting of the Trustees except where the Trustee attends a meeting of the Board of Directors of Keg GP or a meeting of the trustees of the Trust on the same day and for which compensation is paid. The trustees of the Trust (who comprise all of the Trustees) are also compensated \$7,500 plus \$1,000 for each meeting of the trustees of the Trust except where such trustee attends a meeting of the Board of Directors of Keg GP or a meeting of the Trustees on the same day and for which compensation is paid. The Trustees are also Directors of Keg GP and, as such, each receives compensation of \$7,500 plus \$1,000

for attending each meeting of the Board of Directors or a committee thereof except where the Trustee attends a meeting of the Trustees or a meeting of the trustees of the Trust on the same day and for which compensation is paid. Directors who are also directors or officers of KRL are not entitled to the annual retainer payable to Directors. Trustees, trustees of the Trust and Directors are also entitled to be reimbursed for reasonable expenses incurred by them in connection with their services as Trustees, trustees of the Trust and Directors. The aggregate amount paid to the Trustees as compensation, for acting as Trustees, trustees of the Trust and Directors, during the financial year of the Fund ended December 31, 2019 was \$91,500. This compensation (and any expense reimbursement) is paid by the Partnership.

#### ***Other Board Committees***

The Boards have no committees other than the Audit Committee and the Corporate Governance Committee.

#### ***Assessments***

The Board has given the Governance Committee the mandate to establish and administer a process for assessing the effectiveness of the Board as a whole and the committees of the Board. The Governance Committee is also responsible for recommending to the Keg GP Board, at the appropriate time, an evaluation process for Directors individually. However, such systems have not yet been implemented. Given that each of the Trustees are also Directors, the Trustees do not believe a separate Trustee review process is necessary.

Furthermore, the Keg GP Board has given the Governance Committee the mandate to develop and monitor Keg GP's overall approach to corporate governance issues and, subject to approval of the Keg GP Board, implement and administer Keg GP's governance system. The Governance Committee is also explicitly responsible for certain governance issues relating to the relationship with KRL, including reviewing KRL's internal controls and performance of the management of KRL.

## **Schedule “B”**

### **The Keg Royalties Income Fund**

#### ***Charter of the Board of Trustees***

The declaration of trust dated April 12, 2002, as amended from time to time (the “Declaration of Trust”), establishing the Keg Holdings Trust, provides that the investments and affairs of Keg Royalties Income Fund (the “Fund”) will be subject to the control and authority of a minimum of two and a maximum of ten trustees. The trustees are responsible for supervising the activities and managing the investments and affairs of the Fund pursuant to section 8.2 of the Declaration of Trust. The responsibilities of the board of trustees described herein are made pursuant to such provision and do not impose any additional responsibilities or liabilities on the trustees at law or otherwise. The capitalized terms not defined herein shall have the same meaning as in the Declaration of Trust.

#### **Composition**

The board of trustees shall be constituted with a majority of individuals who qualify as independent trustees.

#### **Responsibilities of the Board Of Trustees**

The board of trustees are responsible for supervising the activities and managing the investments and affairs of the Fund pursuant to section 8.2 of the Declaration of Trust and in that regard shall be responsible for the following powers and authorities:

- (1) to supervise the activities and manage the investments and affairs of the Trust and in connection therewith to enter into the Administration Agreement;
- (2) to maintain records and provide reports to Trust Unitholders;
- (3) to open, operate and close accounts and other similar credit, deposit and banking arrangements and to negotiate and sign banking and financing contracts and agreements;
- (4) to borrow money upon the credit of the Trust and the Trust Assets including, without limitation, to borrow the Term Loan;
- (5) to issue, reissue, sell or pledge debt obligations of the Trust and to make, accept, endorse, negotiate or otherwise deal with bonds, debentures, cheques, drafts, notes, orders for the payment of money, bills of exchange, bills of lading, acceptances and other similar instruments and obligations as may be necessary or useful to carry out the purpose of the Trust;
- (6) to give a guarantee on behalf of the Trust to secure performance of an obligation of another person;
- (7) to mortgage, hypothecate, pledge or otherwise create a security interest in all or any movable or personal, immovable or real or other property of the Trust, owned or subsequently acquired, to secure any obligation of the Trust;
- (8) to obtain security, including encumbrances on assets, to secure the full payment of monies owed to the Trust and the performance of obligations in favour of the Trust, and to exercise all of the rights of the Trust, and to perform all of the obligations of the Trust, under such security;
- (9) to exercise and enforce any and all rights of foreclosure, to bid on property on sale or foreclosure, to take a conveyance in lieu of foreclosure with or without paying a consideration therefor and in connection therewith to revive the obligation on the covenants secured by such security and to exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies with respect to any such security or guarantee;

- (10) to establish places of business of the Trust;
- (11) to manage the Trust Assets;
- (12) to invest, hold shares, trust units, beneficial interests, partnership interests, joint venture interests or other interests in any person necessary or useful to carry out the purpose of the Trust;
- (13) to cause title to any of the Trust Assets to be drawn up in the name of such person on behalf of the Trust or, to the extent permitted by applicable law, in the name of the Trust, as the Trustees shall determine;
- (14) to determine conclusively the allocation to capital, income or other appropriate accounts of all receipts, expenses and disbursements;
- (15) to enter into any agreement or instrument to create or provide for the issue of Trust Units, to cause such Trust Units to be issued for such consideration as the Trustees, in their sole discretion, may deem appropriate and to do such things and prepare and sign such documents to qualify such Trust Units for sale in whatever jurisdictions they will be sold or offered for sale;
- (16) to determine conclusively the value of any or all of the Trust Assets from time to time and, in determining such value, to consider such information and advice as the Trustees in their sole judgment, may deem material and reliable;
- (17) to collect, sue for and receive all sums of money due to the Trust;
- (18) to effect payment of distributions to the Trust Unitholders as provided in Section 5 of the Declaration of Trust but not contrary to any provisions of any Subordination Agreement;
- (19) to invest funds of the Trust as provided in Section 4 of the Declaration of Trust;
- (20) to possess and exercise all the rights, powers and privileges pertaining to the ownership of limited partner units of the Partnership, to the same extent that an individual might, unless otherwise limited herein, and, without limiting the generality of the foregoing, to vote or give any consent, request or notice, or waive any notice, either in person or by proxy or power of attorney, with or without power of substitution, to one or more persons, which proxies and powers of attorney may be for meetings or actions generally or for any particular meeting or action and may include the exercise of discretionary power;
- (21) where reasonably required, to engage or employ on behalf of the Trust any persons as agents, representatives, employees or independent contractors (including, without limitation, investment advisors, registrars, underwriters, accountants, lawyers, appraisers, brokers or otherwise) in one or more capacities;
- (22) except as prohibited by law, to delegate any of the powers and duties of the Trustees to any one or more agents, representatives, officers, employees, independent contractors or other persons without liability to the Trustees, except as provided in this Amended and Restated Declaration of Trust;
- (23) to engage in, intervene in, prosecute, join, defend, compromise, abandon or adjust, by arbitration or otherwise, any actions, suits, disputes, claims, demands or other litigation or proceedings, regulatory or judicial, relating to the Trust, the assets of the Trust or the Trust's affairs, to enter into agreements therefor, whether or not any suit or proceeding is commenced or claim asserted and, in advance of any controversy, to enter into agreements regarding the arbitration, adjudication or settlement thereof;
- (24) to arrange for insurance contracts and policies insuring the Trust, its assets and/or any or all of the Trustees or the Trust Unitholders, including 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 or Trust Unitholders;

- (25) to cause legal title to any of the assets of the Trust to be held by and/or in the name of a Trustee, or except as prohibited by law, by and/or in the name of the Trust or any other custodian or person, on such terms, in such manner, with such powers in such person as the Trustees may determine and with or without disclosure that the Trust or the Trustee is interested therein; provided, however, that should legal title to any of the Trust Assets be held by and/or in the name of any person or persons other than a Trustee or the Trust, the Trustees shall require such person or persons to execute a trust agreement acknowledging that legal title to such assets is held in trust for the benefit of the Trust;
- (26) to issue Trust Units for such consideration as the Trustees may deem appropriate in their sole discretion, such issuance to be subject to the terms and conditions of the Amended and Restated Declaration of Trust;
- (27) to enter into or perform the obligations of the Trust under the Underwriting Agreement;
- (28) in addition to the mandatory indemnification provided for in Section 8.9 of the Declaration of Trust to the extent permitted by law to indemnify, to enter into agreements with respect to the indemnification of, any Person with whom the Trust has dealings including, without limitation, the Trustees, any registrar and transfer agent or escrow agent, to such extent as the Trustees shall determine;
- (29) with the approval or confirmation of Trust Unitholders, enact and from time to time amend or repeal by-laws not inconsistent with this Amended and Restated Declaration of Trust containing provisions relating to the Trust, the Trust Assets and the conduct of the affairs of the Trust, but not in conflict with any provision of this Amended and Restated Declaration of Trust;
- (30) to pay all taxes or assessments, of whatever kind or nature, whether within or outside Canada, imposed upon or against the Trustees in connection with the Trust Assets, undertaking or income of the Trust, or imposed upon or against the Trust Assets, undertaking or income of the Trust, or any part thereof and to settle or compromise disputed tax liabilities and for the foregoing purposes to make such returns, take such deductions, and make such designations, elections and determinations in respect of the Income of the Trust or Net Realized Capital Gains distributed to Trust Unitholders in the year and any other matter as shall be permitted under the Tax Act (provided that to the extent necessary the Trustees will seek the advice of the Trust's counsel or the Auditor), and do all such other acts and things as may be deemed by the Trustees in their sole discretion to be necessary, desirable or convenient;
- (31) to guarantee the obligations of the Partnership, the Fund or any affiliate of the Trust for indebtedness in respect of borrowed money (including letters of credit, bank guarantees and banker acceptances) incurred by the Partnership, the Fund or an affiliate, as the case may be, and granting security in the Trust Assets, including pledging the limited partner units as security for such indebtedness or guarantee; and
- (32) to do all such other acts and things as are incidental to the foregoing, and to exercise all powers which are necessary or useful to carry on the purpose and activities of the Trust, to promote any of the purposes for which the Trust is formed and to carry out the provisions of this Amended and Restated Declaration of Trust.

While the board of trustees is called upon to "manage" the business of the Fund, this is done by proxy through the appointed executives of the Fund's subsidiaries. The board of trustees is responsible for the on-going strategic planning process of the Fund, approves the goals of the business and the strategies and policies within which it is managed, and then steps back and evaluates management performance. Reciprocally, management keeps the board of trustees fully informed of the progress of the Fund and its subsidiaries towards the achievement of their established

goals and of all material deviations from the goals or objectives and policies established by the board of trustees in a timely and candid manner.

It is recognized that every trustee in exercising powers and discharging duties must act honestly and in good faith with a view to the best interest of the Fund. Trustees must exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. In this regard, they will comply with their duties of honesty, loyalty, care, diligence, skill and prudence.

In addition, trustees are expected to carry out their duties in accordance with policies adopted by the board of trustees from time to time, the current policy being annexed hereto as Appendix "C".

It is expected that management will co-operate in all ways to facilitate compliance by the board of trustees with its legal duties by causing the Fund and its subsidiaries to take such actions as may be necessary in that regard and by promptly reporting any data or information to the board of trustees that may affect such compliance.

### **Responsibilities of Chair**

The role and responsibilities of the Chair of the Fund are set out below:

- (1) the Chair shall be expected to attend and chair meetings of the board of trustees of the Fund;
- (2) the Chair shall not be a member of management of the Fund or Keg GP or its subsidiaries;
- (3) the Chair shall not be expected to and shall not perform policy making functions other than in his or her capacity as a trustee of the Fund. The Chair shall not have the right or entitlement to bind the Fund in his or her capacity as Chair;
- (4) the Chair shall provide direction with respect to the dates and frequencies of board meetings and related committee meetings and the Chief Executive Officer of Keg GP and the Chair shall liaise to prepare board meeting agendas;
- (5) the Chair shall ensure that the board understands the boundaries between board and management responsibilities; and
- (6) the Chair shall ensure that the board of trustees carries out its responsibilities effectively, which will involve the board meeting on a regular basis without management of Keg GP or its subsidiaries present and may involve assigning responsibility for administering the board's relationship to management to a committee of the board.

### **Measures for Receiving Unitholder Feedback**

All publicly disseminated materials of the Fund shall provide for a mechanism for feedback of unitholders. Persons designated to receive such information shall be required to provide a summary of the feedback to the trustees on a semi-annual basis or at such other more frequent intervals as they see fit.

### **Expectations of Management**

Management of Keg GP shall be required to report to the board of trustees at the request of the board on the performance of the Fund, new and proposed initiatives, the Fund's business and investments, management concerns and any other matter the board or its Chair may deem appropriate. In addition, the board expects management of Keg GP to promptly report to the Chair of the board any significant developments, changes, transactions or proposals respecting Keg GP or its subsidiaries.

### **Definitions**

**"independent trustee"** means a trustee who has no direct or indirect material relationship with Keg GP or the Partnership or its affiliates.

**“material relationship”** means a relationship which could, in the view of the Board, reasonably interfere with the exercise of a trustee’s independent judgment. Without limiting the generality of the foregoing, the following persons are considered to have a material relationship with Keg GP/ the Partnership:

- (a) a person who is, or has been within the last three years, an employee or executive officer of Keg GP/the Partnership, or any of its subsidiary entities or affiliated entities;
- (b) a person whose immediate family member is, or has been within the last three years, an executive officer of Keg GP/the Partnership, or any of its subsidiary or affiliated entities;
- (c) a person who (i) is a partner<sup>1</sup> of Keg GP/the Partnership’s internal or external auditor; (ii) is employed by the firm that is Keg GP/the Partnership’s internal or external auditor, or (iii) was within the last three years a partner or employee of that firm and personally worked on Keg GP/the Partnership’s audit within that time;
- (d) a person whose spouse, minor child or stepchild, or child or stepchild who shares a home with the person (i) is a partner of the firm that is Keg GP/the Partnership’s internal or external auditor, (ii) is an employee of that firm and participates in its audit, assurance or tax compliance (but not tax planning) practice, or (iii) was within the last three years a partner or employee of that firm and personally worked on Keg GP/the Partnership’s audit within that time;
- (e) a person who is, or has been, or whose immediate family member is, or has been within the last three years, an executive officer of an entity if any of Keg GP/the Partnership or its subsidiaries’ current executives serves or served at that same time on the entity’s compensation committee;
- (f) a person who received, or whose immediate family member who is employed as an executive officer of Keg GP/the Partnership or any of its subsidiary entities received, more than \$75,000 in direct compensation from Keg GP/the Partnership or its subsidiary entities during any 12 month period within the last three years, other than (i) as remuneration for acting in his or her capacity as member of the board of trustees, board of directors or any board committee, or (ii) fixed amounts of compensation under a retirement plan for prior service with Keg GP/the Partnership or any of its subsidiary entities if the compensation is not contingent in any way on continued service;
- (g) a person who is an affiliated entity of Keg GP/the Partnership or any of its subsidiary entities.

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<sup>1</sup> “partner” does not include a fixed income partner whose interest in the internal or external auditor is limited to the receipt of fixed amounts of compensation (including deferred compensation) for prior service with an internal or independent auditor if the compensation is not contingent in any way on continued services.

## SCHEDULE "C"

### POLICY OF PRACTICES FOR TRUSTEES

#### Attendance at Meetings

Each trustee is expected to have a very high record of attendance at meetings of the board of trustees, and at meetings of each committee on which the trustee sits. A trustee is expected to:

- (i) advise the Chair as to planned attendance at board and committee meetings shortly after meeting schedules for the year have distributed;
- (ii) advise the Chair as soon as possible after becoming aware that he or she will not be able to attend a meeting; and
- (iii) attend a meeting by conference telephone if unable to attend in person.

#### Preparation for Meetings

Trustees are expected to carefully review and consider the materials distributed in advance of a meeting of the board of trustees or a committee of the board of trustees. Trustees are also encouraged to contact the Chair, the Chief Executive Officer of Keg GP and any other appropriate officers to ask questions and discuss agenda items prior to meetings.

#### Conduct at Meetings

Trustees are expected to ask questions and participate in discussions at meetings, and to contribute relevant insights and experience. In discussions at meetings, a trustee should:

- (i) be candid and forthright;
- (ii) not be reluctant to express views contrary to those of the majority;
- (iii) be concise and, in most circumstances, respect the time constraints of a meeting; and
- (iv) be courteous to and respectful of other directors/trustees and guests in attendance.

#### Knowledge of the Fund's Business

Trustees are expected to be knowledgeable with respect to the various fields and divisions of business. Although management has a duty to keep the board of trustees informed about developments in the Fund's business, trustees have a primary duty of care and diligence, which includes a duty of inquiry. Trustees should:

- ask questions of management and other directors/trustees, at meetings and otherwise, to increase their knowledge of the business of the Fund;
- familiarize themselves with the risks and challenges facing the business of the Fund;
- read all internal memoranda and other documents circulated to the directors, and all reports and other documents issued by the Fund for external purposes;
- insist on receiving adequate information from management with respect to a proposal before board approval is requested;

- familiarize themselves with the Fund's competitors by, among other things, reading relevant news, magazine and trade journal articles; and
- familiarize themselves with the legal and regulatory framework within which the Fund carries on its business.

**Personal Conduct**

Trustees are expected to:

- (i) exhibit high standards of personal integrity, honesty and loyalty to the Fund;
- (ii) project a positive image of the Fund to news media, the financial community, governments and their agencies, shareholders and employees;
- (iii) be willing to contribute extra efforts, from time to time as may be necessary including, among other things, being willing to serve on committees of the board; and
- (iv) disclose any potential conflict of interest that may arise with the business or affairs of the Fund and, generally, avoid entering into situations where such conflicts could arise or could reasonably be perceived to arise.





