

the Trustees in office shall be deemed to be the qualified and acting Trustees until such time as the successor Trustee or Trustees has or have been named and qualified. At the next meeting of Shareholders after the determination of such conflict, there shall be submitted to the Shareholders for their approval or disapproval by a majority of those voting, the question as to whether such Shareholder's right or rights should be restored. If the Shareholders vote to restore such right or rights, the Trustees, without further Shareholder consent, shall promptly make any amendments to the Declaration of Trust necessary to restore such right or rights.

Section 13.9. Severability. If any provisions of this Declaration shall be held invalid or unenforceable, such invalidity or unenforceability shall attach only to such provision and shall not in any manner affect or render invalid or unenforceable any other provision of this Declaration, and this Declaration shall be carried out as if any such invalid or unenforceable provision were not contained herein.

Section 13.10. Qualification as Real Estate Investment Trust. The Trustees shall endeavor as promptly as possible after the creation of this Trust and the first public offering of Shares to carry out their duties hereunder in such a manner as to qualify the Trust as a real estate investment trust under the REIT Provisions of the Code and thereafter to maintain such qualification and to obtain for the Shareholders the benefits of such qualification that the Trustees reasonably believe to be in the best interests of the Shareholders; provided, however, that the failure at any time of the Trust to qualify as a real estate investment trust under the REIT Provisions of the Code shall not render the Trustees liable to the Beneficiaries or to any other person or in any manner operate to annul the Trust. In interpreting or construing any of the provisions of this Declaration, any court or administrative agency shall construe such provisions liberally with a view to affording the Trustees the maximum degree of freedom and flexibility in obtaining for the Shareholders the benefits of the REIT Provisions of the Code.

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