

**SECOND**  
**AMENDED AND RESTATED**  
**TRUST AGREEMENT**

THIS TRUST AGREEMENT (the ~~"Agreement"~~) is made as of the 15th day of December, 2005, by CORPORATION FOR NATIONAL RESEARCH INITIATIVES, a District of Columbia non-profit corporation ("CNRI"), INTERNET SOCIETY, a District of Columbia non-profit corporation ("ISOC"), as Settlers, the INTERNET ENGINEERING TASK FORCE ("IETF"), and the INITIAL TRUSTEES as defined herein, and amended initially on February 20, 2014 and subsequently amended on November 6, 2018 (the "Second Amendment Date") in accordance with the provisions of Section 10.1 hereof.

**ARTICLE I.**  
**IDENTIFICATION OF TRUST**

1.1 Name. The trust created by this Agreement shall be known as the "IETF Trust."

**ARTICLE II.**  
**PURPOSE OF TRUST**

2.1 Purpose. The purposes for which the Trust is organized and operated are to engage exclusively in such charitable, educational, and scientific activities as may qualify it for exemption from federal income tax under Section 501(c)(3) of the Code (as defined below). Such purposes include, but are not limited to, the advancement of education and public interest by acquiring, holding, maintaining and licensing certain existing and future intellectual property and other property used in connection with the Internet standards process and its administration, for the advancement of the science and technology associated with the Internet and related technology.

**ARTICLE III.**  
**DEFINITIONS**

3.1 Definitions. As used in this Agreement, the following terms shall have the indicated meanings:

"Beneficiary" has the meaning described in Article IV.

"Code" means the United States Internal Revenue Code of 1986, as amended, and any applicable regulations thereunder.

"Effective Date" shall mean the date first stated above.

~~"Eligible Person" means, subject to Section 6.1, a then current member of the IAOC, duly appointed and in good standing in accordance with the procedures of the IAOC established pursuant to IETF document BCP 101, RFC 4071 (April 2005), and any duly approved successor documents, updates or amendments thereto, including the RFC issued to update BCP 101 to reflect the establishment of this Trust.~~

"IAOC" means the IETF Administrative Oversight Committee, as constituted in accordance with IETF document BCP 101, RFC 4071 (April 2005), and any duly approved successor documents, updates or amendments thereto, including the RFC issued to update BCP 101 to reflect the establishment of this Trust.

"IESG" means the Internet Engineering Steering Group as constituted in accordance with RFC 2026 and any duly approved successor documents thereto.

"IETF" means the Internet Engineering Task Force, which is dedicated to the development and publication of Internet standards, specifications and related documents on a charitable, non-profit basis.

"IETF NomCom" means the IETF nominations committee as constituted in accordance with BCP 10 and any duly approved successor documents thereto.

"IPR" means the property and rights as described and/or listed on Schedule A attached hereto, including intellectual property, domain names and other property listed thereon.

"Initial Trustees" means the duly appointed members of the IAOC as of the Effective Date who are listed on Schedule B attached hereto and who have executed this Agreement below.

"Person" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization or governmental authority.

"Purpose" means the purpose for which the Trust is formed as described in Article II. "Settlor" means either of CNRI or ISOC, and "Settlers" means both CNRI and ISOC.

"Trust" means the Trust formed hereby under the laws of the Commonwealth of Virginia.

"Trust Assets" means the IPR and, subject to the provisions of Article V, any additional property and rights that may be contributed or assigned to the Trust or otherwise become a part of the Trust, including without limitation any property, rights or derivative works created using any of the foregoing or other Trust Assets which are assigned to the Trust in accordance with the terms hereof.

"Trustee" or "Trustees" means, subject to the provisions of Article VI below, the Initial Trustees, and any individual that becomes a successor Trustee hereunder. The use of the singular "Trustee" herein may refer to one or more Trustees.

#### **ARTICLE IV. BENEFICIARY**

The Beneficiary of the Trust shall be the IETF as a whole and not any individuals who may participate in IETF activities or either of the Settlers. In the event that the IETF ceases to, or plans to cease to, develop technical standards for the Internet, then upon and only upon the express written consent of the IESG, or the IESG's successor as the leadership of the IETF, the IETF's successor with respect to the development of technical standards for the Internet shall become the successor Beneficiary under this Trust; provided that neither of the Settlers nor any affiliate of either Settler shall become such successor organization or successor Beneficiary, and provided, further, that if either the IESG or its successor does not consent to the IETF's successor becoming the beneficiary hereunder, or if neither the IESG nor its successor are then existing, the successor Beneficiary shall be jointly designated by the Settlers.

#### **ARTICLE V. TRUST ASSETS**

5.1 Contribution of IPR. Settlers hereby transfer to the Trust on the Effective Date, except as otherwise provided in Schedule A, without representation or warranty on an "AS IS", quitclaim basis, all of their right, title and interest, if any, in and to their respective IPR. For the avoidance of doubt, Settlers acknowledge that the IPR that each shall so contribute to the Trust may include IPR developed by or on behalf of IETF. On and/or after the Effective Date, as the case may be, the Trust shall have the full ownership and enjoyment of the IPR. Settlers shall promptly thereafter make the necessary arrangements to record the transfers of their respective rights and interests in the IPR, as reasonably required by the Trustees. The IETF hereby releases, remises, transfers, and quitclaims to the Trust all of its right, title, and interest, if any, in and to the IPR.

5.2 Contribution or License of Other Property. The Trustees will encourage others who may hold rights and interests in intellectual property, domain names or other property relevant to the IETF to similarly transfer all of their respective right, title and interest therein to the Trust, including by licensing to the Trust (preferably on a perpetual, irrevocable, worldwide, royalty-free basis), with the right to sublicense, rights to practice their inventions and patents, which the Trust may use and license to third parties in accordance with Section 9.5 of this Agreement; provided, however, that no contribution, transfer, or license of such rights or interests shall be deemed accepted as part of the Trust Assets unless the Trustees have affirmatively, in writing, accepted the applicable right or interest.

5.3 Bank Account; Additional Contributions. The Trustees shall, promptly after the execution of this Agreement, establish and maintain a bank account in the name of the Trust and may receive funds for the Trust, as appropriate, to be held in such bank account. Any Person may contribute additional funds as well as property to the Trust; provided, however, that acceptance of any contributions to the Trust shall be subject to the approval of the Trustees. Any solicitation of funds shall be done in accordance with applicable legal requirements, including requirements related to registration or fundraising (to the extent applicable).

## ARTICLE VI. TRUSTEES

### 6.1 Trustees; Successor Trustees.

(a) ~~(a)~~—The Trust shall normally have five Trustees;

i. Three Trustees shall be appointed by the IETF NomCom and confirmed by the IESG. The term for Trustees appointed by the IETF NomCom shall be three years, except the initial three Trustees appointed by the IETF NomCom will be appointed for one, two and three years respectively.

ii. One Trustee shall be appointed by the IESG. The term for this Trustee will be two years, except the initial Trustee appointed by the IESG will be appointed for a one year term.

iii. One Trustee shall be appointed by ISOC. The term for this Trustee will be two years.

(b) The Trustees serving as —shall consist of the Second Amendment Date will remain Trustees until five Trustees have been appointed in accordance with the process described in Section 6.1(a) above, and each of the these Trustees —Eligible—Persons who have agreed in writing to serve as become, and to fulfill the duties of, Trustees hereunder. Upon such agreement by five Trustees appointed pursuant to Section 6.1(a), any remaining Trustees No Person who is not so appointed will automatically be removed as Trustees. an

(c) A Trustee appointed by the IETF NomCom may be recalled in accordance with BCP 10 and any duly approved successor documents thereto. Trustees appointed by the IESG or by the ISOC Board of Directors may be recalled by the appointing body. If the final conclusion of the applicable recall process is that a Trustee should be removed as a Trustee, that Trustee will be automatically removed as of the date of such conclusion.

(d) In the event that a Trustee position is vacated, the appointing body may appoint a replacement to serve the remainder of the terms of the vacating Trustee. Upon appointment and confirmation by the appropriate nominating body(ies) specified in Section 6.1(a), and agreement in writing to serve as a Trustee hereunder, the appointed replacement will be a Trustee.

(e) Unless they otherwise vacate the position, a Trustee appointed pursuant to Section 6.1(a) will serve until their replacement is duly appointed and agrees to serve as a Trustee hereunder. At such time the replaced Trustee will be automatically removed as a Trustee.

~~Eligible Person shall be permitted to become a Trustee hereunder. Individuals shall be eligible to be Trustees only for so long as they are Eligible Persons. In the event from time to time individuals who are not currently Eligible Persons become Eligible Persons, such individuals shall become Trustees hereunder upon agreeing in writing to become, and to fulfill the duties of, Trustees hereunder. By executing this Agreement, the individuals listed on the signature page hereto under the heading "Initial Trustees" are agreeing to become, and to fulfill the duties of, Trustees hereunder, and no further writing or instrument shall be necessary in order for such individuals to become Initial Trustees hereunder.~~

~~(b) In the event that a Trustee ceases to be an Eligible Person, such Trustee shall automatically be removed as a Trustee hereunder and shall, upon the request of the remaining Trustees, confirm such removal in writing. No vote or action taken by any Trustee (other than their resignation as a Trustee) following his or her ceasing to be an Eligible Person shall be effective or valid for any purpose whatsoever, and such individual shall not be included in the number of Trustees for purposes of determining quorum or the number of Trustees necessary to approve or authorize an action in accordance with Section 7.1.~~

(f) ~~(e)~~ Notwithstanding the foregoing, if for any reason there are fewer than three individuals serving as Trustees, then the IESG, or the IESG's successor as the leadership of the IETF, shall appoint one or more individuals to serve in a temporary capacity as Trustee(s) until successors are appointed and confirmed by the appropriate nominating body(ies) specified in Section 6.1(a), succeeded by Eligible Persons, so that there are at least three Trustees at all times.

~~(g)~~ Any successor Trustee shall succeed to all of the powers, authorities, rights, discretions, immunities, estates, titles, duties and obligations of a Trustee hereunder, without the necessity of any conveyance or the taking of any action whatsoever.

6.2 Qualification. No Person shall be required to be a resident of the Commonwealth of Virginia in order to be a Trustee. To the maximum extent

permitted by law, no Trustee, whether or not a resident of the Commonwealth of Virginia or otherwise, shall be required to:

a. take actions or meet requirements to qualify as a Trustee other than as required by Section 6.1(a);

b. in the case of a Person that is not a resident of the Commonwealth of Virginia, file any submission to jurisdiction or appoint any agent for service of process in the Commonwealth of Virginia;

c. furnish any bond or surety; or

d. issue or make accounts with respect to the Trust or the property contained therein or for their actions as a Trustee, to a Commissioner of Accounts or any other Person, either upon becoming a Trustee or from time to time thereafter.

Notwithstanding the foregoing, to the extent that applicable law requires any Trustee to undertake any of the actions described in items (a) to (d) above, such Trustee hereby agrees (1) to submit to jurisdiction in the Commonwealth of Virginia (in the case of item (b)), (2) to undertake such action and (3) to file with the appropriate Person any documents, instruments, agreements or certificates required in connection therewith.

## **ARTICLE VII. POWERS, RIGHTS AND OBLIGATIONS OF TRUSTEES**

### **7.1 Powers and Obligations of Trustees.**

(a) Except as limited by this Agreement, the Trustees shall have all powers granted by law and shall be responsible for and may take such actions as are required to assure the effective day-to-day operation of the Trust. However, except as otherwise expressly permitted hereunder, the Trustees shall not, and shall not have the right or power to, (i) exchange, distribute, assign, sell, transfer, renounce, or convey, the Trust Assets, (ii) terminate the Trust Assets' registration, or (iii) enter into a license for, grant an option on, or encumber the Trust Assets that is not in compliance with the provisions of Section 9.5, except that in the case of clauses (i) and (ii), the Trustees may, after due consultation with the Beneficiary, dispose of, assign, sell, transfer, renounce, convey or terminate Trust Assets that are of no current or foreseeable future value to the Beneficiary and which require the expenditure of funds to retain. This exception does not include RFCs.

(b) As promptly as reasonably practical following the Effective Date, the Trustees shall publish, or have published, procedures for administration of the Trust, reimbursement by Trustees of their fees and expenses from the Trust, management of the Trust Assets, conflicts of interest and standards of conduct. Thereafter, the Trustees may amend such procedures from time to time.

(c) The Trustees shall use reasonable efforts to secure contributions or commitments from third parties to contribute or make available sufficient funds to or on behalf of the Trust to administer the Trust and to maintain the Trust Assets at least until July 1, 2010, including but not limited to the payment of filing and maintenance fees for the Trust Assets as deemed reasonable and appropriate.

(d) It is the express intent of the Settlers that this Trust not become (and any court not order that this Trust be) invalid or terminated or the Trust Assets be released from trust, except as expressly permitted by Section 10.1.

(e) The Trustees shall report annually to the IETF community concerning the activities of the Trust, including grants or licenses given by the Trust, demonstrating that the Trust is being operated in furtherance of the Purpose.

7.2 Decision-making. A quorum for a meeting of the Trustees shall be a majority of the Trustees then in office. Except as otherwise provided in this Agreement all decisions of the Trustees must be approved by majority vote of the Trustees then in office. No Trustee shall have the power to act or bind the Trust unless specifically so authorized in accordance with the immediately preceding sentence.

7.3 Delegation. The Trustees shall have the authority to delegate certain duties and responsibilities of administering the Trust to other individuals or entities who shall remain under the supervision, direction and control of the Trustees. The Trust shall have the authority to contract with third parties to carry out any actions necessary to acquire, hold, maintain and license Trust Assets subject to the limitations of this Agreement. No such delegation or third party shall permit any other Person to take any action that would not be permitted to be taken by a Trustee or the Trustees hereunder.

7.4 No Prudent Investor Standard. The Trustees shall not be required to follow the "prudent investor" or any similar rule, and in particular, the "prudent investor" or any similar rule shall not constitute, or be deemed to constitute, a basis for the exchange, distribution, assignment, sale, transfer, conveyance, grant of an option on, or encumbrance on the Trust Assets. In addition, the Trustees shall not be under any obligation to diversify the Trust Assets.

7.5 No Liability for Acts of Predecessor Trustee. No Trustee shall be responsible or liable for the acts or omissions of any predecessor Trustee, or of a custodian, agent, depository or counsel selected with reasonable care.

7.6 Fees and Expenses of Trustees. The Trustees are collectively authorized to reimburse themselves from the Trust for reasonable expenses incurred in the administration of the Trust, upon promulgation of, and in accordance with, the procedures

therefore referred to above in Section 7.1(b). Unless otherwise expressly provided herein, no Trustee shall be entitled to compensation for his or her services as Trustee hereunder.

7.7 Limitation on Trustee Liability. No Trustee shall be liable to the Trust or any other person for monetary or other damages for breach of fiduciary duty as a Trustee to the maximum extent permitted by Virginia law; provided, however, that this provision shall not limit the liability of a Trustee (a) for any breach of the Trustee's duty of loyalty to the Trust or (b) as otherwise required by Virginia law. If Virginia law be hereafter amended to authorize the further elimination or limitation of liability of Trustees, then the liability of the Trustees shall be limited to the fullest extent permitted by Virginia law, as so amended, and such elimination or limitation of liability shall be in addition to, and not in lieu of, the limitation on liability provided in the previous sentence. Any repeal or amendment of this section shall be of prospective effect only and shall not adversely affect any limitation on the liability of the Trustee existing at the time of such repeal or amendment.

## **ARTICLE VIII. TERM OF TRUST**

8.1 Term. The Trust shall be for an indefinite term; provided, however, that, if this Agreement would be unenforceable in the event that it were to continue in perpetuity or otherwise violate the Rule against Perpetuities, then the term of this Agreement shall be limited to the maximum period permitted by law. Notwithstanding the foregoing, on or after July 1, 2010, the Trustees, acting by at least a two-thirds majority vote, may elect to terminate the Trust.

8.2 Distributions Upon Dissolution. Upon the termination or dissolution of the Trust for any reason, the Trust Assets shall be distributed to an organization to be used in furtherance of the Purpose, after the payment or making provisions for the payment of all of the liabilities of the Trust; provided that neither of the Settlor nor any affiliate of either Settlor shall so receive any Trust Assets. Any such Trust Assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the Trust is then located, exclusively for such Purpose.

## **ARTICLE IX. ADMINISTRATION OF TRUST**

9.1 Income. After payment of all expenses of administering the Trust and maintaining the Trust Assets, any part or all of the net income of the Trust may, in the absolute discretion of the Trustees, be retained or paid to or applied for the benefit of the Beneficiary to be used in furtherance of the Purpose, at such intervals and in such amounts as the Trustees from time to time deem requisite or desirable



and/or to comply with any applicable legal requirements. Any net income not paid or applied shall be added to and become a part of the principal of the Trust.

9.2 Principal. After payment of all expenses of administering the Trust and maintaining the Trust Assets, in the absolute discretion of the Trustees, the principal shall be retained or used in furtherance of the Purpose, at such intervals and in such amounts, as the Trustees from time to time deem requisite or desirable and/or to comply with any applicable legal requirements (it being understood and agreed that this section shall not override, and shall be subject to, the provisions of Sections 7.1 and 7.3).

9.3 Expenses. The Trustees shall pay from amounts contributed by third parties or from the Trust Assets the expenses of administering the Trust, which may include, but shall not be limited to, the reasonable costs of administering the Trust, including legal and accounting fees, as appropriate, the payment of filing fees and maintenance fees for the Trust Assets, and the reasonable costs incurred in administering the Trust. In no event may the Trustees liquidate or distribute IPR in order to pay such expenses, to pay any tax or to acquire or maintain any exemption from federal income tax under Section 501(c)(3) of the Code or to comply with the minimum distribution requirements of Section 4942 of the Code.

9.4 Maintenance of the Trust Assets. The Trustees shall take reasonable steps to maintain the value, validity and enforceability of the Trust Assets that are subject to registration, including by filing affidavits of continued use and applying for all renewals to the extent permitted by applicable law. The Trustees shall have the right to prepare, file and prosecute registration applications in the Trust's name, as the Trustees deem necessary in order to maintain and protect the Trust Assets.

9.5 Licenses. The Trust (acting through the Trustees) shall have the right to grant licenses for the use of the Trust Assets on such terms, subject to Section 7.1, as the Trustees deem appropriate; provided, however, that the Trust shall not grant any license that would be deemed a transfer of ownership or abandonment of any Trust Assets under applicable law. Specifically, any license granted by the Trust for the use of the Trust Assets consisting of IPR other than rights in IETF standards-related documents (such as RFCs, Internet Drafts and the like) that have been acquired by the Trust through non-exclusive licenses granted by their contributors pursuant to the IETF community-approved procedures currently set forth in RFC 3978, and any community-approved updates and revisions thereto, shall include provisions stating that (a) the licensee agrees to grant and assign to the Trust all right, title, and interest it may have or claim in any derivative works of licensee that are based on or incorporate the IPR, and (b) the licensee's use of the IPR and any goodwill associated therewith shall inure to the benefit of the Trust.

9.6 Enforcement. The Trustees shall have the right to take, and to determine whether or not to take, any action(s) with respect to any unauthorized use, infringement or dilution of property included in the Trust Assets.

9.7 Use of Trust Assets. The Trust Assets shall be used solely in furtherance of the Purpose. The Trust Assets shall not inure or be payable to or for the benefit of any private individual, except that, subject to Sections 7.1, 7.3, and 9.3, the Trust shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments in furtherance of the Purpose and as permitted by Section 7.6 hereof. The Trust Assets shall not be used for the carrying on of propaganda, or otherwise attempting to influence legislation. No part of the activities of the Trust shall be the participation in, or intervention in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office. Any other provision of this Agreement to the contrary notwithstanding, the Trust shall not carry on any activities not permitted to be carried on by an organization exempt from Federal Income Tax under Section 501(a) and Section 501(c)(3) of the Code.

## **ARTICLE X. MISCELLANEOUS PROVISIONS**

10.1 Amendments. Prior to July 1, 2010, this Agreement may be amended only by unanimous written consent of both of the Settlers and two-thirds of the Trustees. After July 1, 2010, the Trustees may unilaterally amend the provisions of this Agreement without the written consent of the Settlers, except that no amendment shall be made with respect to the requirement that the Trust be used in furtherance of the Purpose or subject to the provisions of Sections 2.1 and 9.7.

10.2 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the activities contemplated hereby is not affected in a manner materially adverse to the Trust. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Settlers (if prior to July 1, 2010) and the Trustees shall modify this Agreement so as to effect the Purpose as closely as possible in an acceptable manner to the end that the Purpose is fulfilled to the fullest extent possible.

10.3 Successors and Assigns; Third Party Beneficiaries. Except as expressly provided herein, neither this Agreement nor any rights or obligations hereunder may be assigned, delegated or otherwise transferred. Any attempted assignment, delegation or transfer that does not comply with the provisions of this section shall be null and void. Nothing in this Agreement, express or implied, is intended to or shall confer upon any third party any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement unless expressly provided herein.

10.4 Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of this Agreement.

10.5 Governing Law. This Agreement and the Trust created hereby shall be governed in accordance with the law of the Commonwealth of Virginia, without giving effect to the conflict of laws principles thereof. The original place of administration of the Trust shall be Virginia, but the place of administration of the Trust may be transferred after July 1, 2010, or from time to time thereafter, to such place or places as the Trustees deem appropriate.

10.6 Counterparts. This Agreement may be executed in counterparts, each of which, including those with fax signatures, shall be deemed an original and all of which counterparts taken together shall constitute one and the same instrument.

[ORIGINAL SIGNATURES OMITTED IN THIS COPY]

[ORIGINAL AMENDMENT APPROVED BY TRUST ON FEB. 20, 2014  
CONTAINED IN MINUTES OF TRUSTEE MEETING, FEB. 20, 2014]

[SECOND AMENDMENT APPROVED BY TRUST ON NOV. 6, 2018 CONTAINED  
IN MINUTES OF TRUSTEE MEETING, NOV. 6, 2018]

## **SCHEDULE A – CONTRIBUTED IPR**

Marks: IETF (used in connection with administrative services)

IETF SECRETARIAT

And all rights of every kind throughout the world, whether under the common law or statute, in and to all other trademarks, trade names, logos, designs and the like that include the terms "IETF", "Internet Engineering Task Force", "IRTF", "Internet Research Task Force", "IESG", "Internet Engineering Steering Group", "IAB", "Internet Architecture Board", or any combination or variation of such terms (including without limitation the IETF "4 diamonds" logo), or any terms that are confusingly similar thereto, and all applications, registrations, renewals and reservations thereof.

Domain Names: IETF.ORG

IESG.ORG

IRTF.ORG

IAB.ORG

(and all subdomains thereof)

Current Data: All of its rights in, and copies of, each of the following materials that is currently used (as of the Effective Date) in the administrative, financial and/or other operation of the IETF:

- a) IETF-related databases of current participants and related information;
- b) current mailing lists and web pages;
- c) working group and IESG materials that are currently actively used; and
- d) current Internet Drafts and Request for Comments.

- Historical Data:
- a) "Historical Data" means collectively:
    - i) records of past IETF meetings, including working group meetings, participants at each working group meeting, and overall meeting attendees;
    - ii) records of past Internet Drafts and their processing histories; and
    - iii) records of past Request for Comments and their processing histories.
  - b) In the event that a Settlor extracts Historical Data, such Settlor will promptly provide copies of such Historical Data to the Trust; provided, however, that no Settlor will be under any obligation to extract Historical Data unless such Settlor and the Trustees have prior thereto agreed on reasonable compensation to be paid to such Settlor by the Trust for reasonable costs incurred by such Settlor in performing such extraction, reproduction and any other tasks or work associated therewith. Settlor's rights in extracted Historical Data will be transferred to the Trust when copies of such Historical Data are actually provided to the Trust.
  - c) Each Settlor shall use reasonable efforts not to intentionally and knowingly destroy, damage, alter or delete any material portion of the Historical Data before copies thereof have been received by the Trust, without the Trust's prior written consent. Notwithstanding the foregoing, it is expressly understood that there will be circumstances where Historical Data cannot be produced and/or may be destroyed, damaged, altered or deleted as a result of natural processes, technical constraints or other unintentional causes, and any resulting damage or inaccessibility shall not be deemed a breach of Settlor's obligations under this Section. No Settlor shall be required to take actions other than are reasonable in accordance with such Settlor's past practices and in accordance with such Settlor's then current document retention policies.
  - d) A Settlor shall be entitled to request guidance from the Trust and the Trustees from time to time regarding specific Historical Data and/or whether specific Historical Data can

be provided to third parties; the Trust and the Trustees shall respond to any such request within 45 days.

- e) Copies of Historical Data extracted upon compulsion by any order, summons or subpoena issued by a court, governmental agency or legislative body having jurisdiction, or if produced for any third party, shall, to the extent permitted by such court, agency, or legislative body, also be provided to the Trust at no charge beyond incremental costs; provided, however, that this paragraph shall not apply in the event that such order, summons or subpoena relates to any action or proceeding (i) initiated by any of the following: the Trust, any current or former Trustee or any Settlor, or any person or entity directly or indirectly acting on behalf or at the behest of any of the foregoing, or (ii) to which any of the persons or entities described in clause (i) is party.
- f) Each Settlor shall at any time be entitled to transfer to the Trust copies of any or all Historical Data; and in the event that the Trust does not promptly accept such Historical Data, such Settlor shall be entitled to take, and fully protected in taking, any action that it deems appropriate with respect to any such Historical Data not so accepted without regard to any other provision of this Schedule A or the Trust Agreement.
- g) Notwithstanding anything to the contrary, the relationship of the Settlers to the Trust and the Beneficiary with respect to the Historical Data shall be solely contractual and limited to the express duties set forth herein, and no Settlor shall be deemed to have any fiduciary, implied or other duties, or any fiduciary or partnership relationship, to the Trust or the Beneficiary. Neither the Trust nor the Beneficiary shall have, and each hereby irrevocably waives, any rights with respect to the Historical Data other than such as are expressly set forth above, including rights of accounting, division, partition and access to the Historical Data. Neither the Trust nor any other person or entity shall have any right to access any files, records or databases of any Settlor to obtain Historical Data for themselves without such Settlor's prior written consent.

## **SCHEDULE B – LIST OF INITIAL TRUSTEES**

Brian E. Carpenter

Stephen D. Crocker

Leslie L. Daigle

Edmund B. Juskevicius

Kurt Erik Lindqvist

Lucy Elizabeth Lynch

Lynn M. StAmour

Raymond G. Pelletier, Jr.

Jonne Adam Soininen